NOT YET HEALTHY
NOT YET SAFE

A

Speech in the Ontario Legislature

by

Elie Martel, MPP

Chairman

Ontario New Democratic Party Task Force

on

Occupational Health and Safety

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FOREWORD

The following is a speech by Elie Martel, MPP for Sudbury East, in the Legislative Assembly of Ontario on April 26, 1983.

Mr. Martel, chairman of the Ontario NDP's Task Force on Occupational Health and Safety, reports on the findings and recommendations of the Task Force following its extensive public hearings across the province in 1982.

Minor editing changes have been made to improve readability, but in substance this report is a reproduction of the Hansard of Mr. Martel's speech.

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The conditions and facts presented here are as they were reported to the Task Force at its hearings in 10 Ontario cities. In many instances, the Ministry of Labour acted on the violations of the Occupational Health and Safety Act -- after they were made public through the hearings (attended by Ministry officials) and after questions from Mr. Martel and other members of the NDP caucus in the Legislature.

However, two serious problems remain which affect all workers in this province.

First, in many instances only the glare of publicity and the pressure by the NDP has moved the Ministry to enforce its own laws.

Second, the Ministry's narrow view of its responsibilities and duties in the promotion of occupational health and safety in Ontario has not changed.

For thousands of employees in plants, offices and factories across Ontario, working conditions are still unsafe.

ACKNOWLEDGEMENT

This report is the culmination of many months of intensive effort by many groups and individuals. It represents the first comprehensive study ever to be made of the implementation of the Occupational Health and Safety Act, and I am glad to be able to publicly thank the following people who collaborated in different ways.

- CUPE, who provided a major amount of organizational help for some months in working with various unions and communities.
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- Linda Jolley, whose reputation as an expert in the whole field of occupational health and safety and on the Act itself proved to be well deserved. She shared her knowledge and gave us advice in full measure.
- Janis Sarra and Anne Wordsworth, of our Research staff, not only travelled with the Task Force, but spent untold hours in preparation for the hearings, and eventually drafting this Report. They also carried out the vital job of confirming the facts in all the issues which were raised with us. Without Janis and Anne we would not have a report.
- Maria Lopez, Linda Mitchell, Sandra Ferguson, Carol Freeman, Marcia Boyd, Grant Cassidy and David Agnew who contributed much time and effort in support work for this report.

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- And lastly, special thanks to the members of our ad-hoc committee from which came the concept of the Task Force. To them belongs a major part of the credit for this report.

I thank you all.

Now it is my hope that because of the facts which have emerged -because of the tremendous efforts put forth by all the above, the government will at last respond positively to our concerns, and implement our recommendations which will, for the first time, give the workers of Ontario the health and safety protection they desperately need.

SECTIONS IN THE TASK FORCE REPORT

		Page Numbers
1.	**Introduction**	1
2.	**Internal Responsibility**	3
	- The Establishment of Joint Health and Safety Committees	3 4
	- Meetings	5
	- Failure to Resolve Issues	6
	- Management's Responsibilities	6
	- Case Study #1 - Canadian General Electric	7
3.	**Lack of Enforcement**	10
	- Inspections of the Workplace	10
	- Enforcement of Designated Substances	13
	- Penalties and Fines	14
	- Case Study #2 - Rothsay Concentrates	15
4.	**Right to Refuse Dangerous Work**	17
	- Case Study #3 - Dresser Industries	19
5.	**Workers Right to Information**	21
	- Toxic Substances	21
	- Community Right to Know	22
	- Inappropriate Testing and Monitoring	23
	- Right to Information and Investigation of Accidents	24
	- Case Study #4 - Ferranti-Packard	24
6.	**Medical Monitoring**	27
	- Control Programs	28
	- Workers' Clinics	29
7.	**Regulation of Toxic Substances and Workplace Hazards**	30
	- Deficiencies in the Regulation Process	30
	- The Unregulated Substances	30
	- Noise	33
	- Cancer	33
	- Reproductive Hazards	35
8.	**Worker Education**	37

		Page Numbers
9.	**Exclusions**	39
	- Farm Workers	39
	- Teachers	40
	- Home Workers	40
	- Selective Exclusions from Provisions of the Act	41
	- Firefighters	41
	- Retail Workers	42
10.	**Vulnerability of the Unorganized**	43
	- Case Study #5 - Wilco	45
11.	**Special Sectors**	47
	a) Office Workers	47
	b) Health Care Workers	49
	c) Mining Workers	51
	d) Construction Workers	53
12.	**Conclusion**	55
13.	**Recommendations**	57

Appendix A The Task Force Ad Hoc Advisory Committee

Appendix B List of Task Force Participants

I INTRODUCTION

The Occupational Health and Safety Act 1978, after a long battle by labour and the New Democratic Party, finally came into existence in Ontario on October 1, 1979.

After three years of experience with the Act, the inadequacy of the legislation was becoming apparent to workers struggling to use the Act to improve health and safety conditions in their workplaces.

Specific problems were presented to Elie Martel, M.P.P. for Sudbury East, and NDP Occupational Health and Safety Critic, who raised questions on these cases in the Legislature during the two sessions from September 1981 to March 1982. Each time an issue was raised, the Minister of Labour treated the particular case as an isolated example.

In order to examine in greater depth the failures of the Occupational Health and Safety Act and to gather information from workers with first-hand experience in trying to make the Act work, the NDP set up in the spring of 1982 a Task Force, chaired by Elie Martel, to visit major industrial centres in the province. From September to November of 1982, the Task Force visited ten cities and heard more than a hundred briefs and personal accounts from trade unionists and unorganized workers. The Task Force held hearings in Sudbury, Thunder Bay, Windsor, London, Kitchener, Hamilton, Peterborough, Toronto, St. Catharines and Ottawa.

These hearings confirmed that the problems that were surfacing were in fact part of a much deeper pattern of difficulties arising out of the interpretation and implementation of the Act across the province. The hearings also found that there was widespread dissatisfaction with the Ministry of Labour's performance in applying and enforcing the Act.

The cases, then, which the Minister of Labour had portrayed in the Legislature as isolated incidents, turned out to be in reality an accurate reflection of the difficulties experienced in many workplaces.

Not only does the Act fail to provide workers with any explicit right to a workplace free of hazard, it does not have any stated purpose. In 1963, the International Labour Organization (ILO) defined the objective of occupational health as "the promotion and maintenance of the highest degree of physical mental and social well being of workers in all occupations". The Ontario Act has no such objective. In this respect the Act reflects the government's lack of commitment to a rigorous clean up of the province's workplaces and has left workers vulnerable to the economic decisions of their employers.

Workers in every city gave detailed accounts of the difficulties they faced in making the Internal Responsibility System work as a means of resolving health and safety problems between management and workers. Ultimately workers had to depend on the willingness of management to institute suggested reforms. There was widespread reluctance on the part of management to accept the intention of the Act to protect workers. When faced with an unco-operative management, workers had far too little power to make their workplaces safe.

When the problems were severe enough, workers turned in frustration to the Ministry of Labour, which they often found unsympathetic and unwilling to act in

response to legitimate concerns. Even when the Act or the regulations clearly required management to undertake certain responsibilities, the Ministry of Labour would not use its legal clout to force the company's compliance. Clear violations of the Act went unheeded by the Ministry, often without so much as a slap on the wrist of the company. In the more severe and tragic cases, workers died or were seriously injured before action was taken to correct the problems.

In workplaces where the right to refuse to work in unsafe conditions was exercised, refusals were treated lightly by the Ministry. Often the Ministry did not even investigate the refusal immediately.

Workers who became suspicious of chemicals being used in the plants tried to wrest information from the company on toxicity or the potentially hazardous nature of the substances. When information was given to the workers, it was often incomplete, particularly in identifying the health effects of the chemical on the workers. The difficulty in obtaining information compounded the difficulties for workers in identifying and raising specific health-related issues in their plants.

The Task Force found that medical confidentiality does not exist in many plants across Ontario.

The Task Force was repeatedly told that when company doctors or nurses examined their worker patients, the information was made readily available to management. Workers could not be sure that the information would not be used against them in their work with the company. The recent regulations on designated substances and the provision for testing workers for symptoms of illness has created new threats to workers' rights to keep their medical problems and histories confidential. They have also sparked a new battle between workers and management to allow workers to select the doctor of their choice when medical examinations are required.

These are some of the more blatant failures of the Occupational Health and Safety Act. However, throughout the province, the Task Force found workers engaged in struggles to force management to establish a safe and healthy workplace. Although there was a general recognition of the economic hardship caused by the recession and the resulting loss of jobs, there was never a suggestion that the fight for health and safety should be relaxed.

"Although regulation of occupational health and safety has made some forward strides in the past few years there is a growing danger of reversing the gains. Increased unemployment and the over-all economic slump puts pressure on government to respond by relaxing the stand on basic worker rights under corporate pressures. Diligence must be maintained to keep a forward movement since in reality the needless loss of one human life due to preventable occupational illness or accident is too heavy a premium."

(Ron Rowbottom, Occupational Health and Safety Co-ordinator, Simcoe Can Workers' Union Local 535)

RECOMMENDATIONS INTRODUCTION

1. A purpose for the Occupational Health and Safety Act must be established such as the International Labour Organization statement , which defines the objective of occupational health as "the promotion and maintenance of the highest degree of physical, mental and social well-being of workers in all occupations."

II INTERNAL RESPONSIBILITY

"Internal Responsibility became the proclaimed panacea for all problems at the worksite."

(Colin Lambert, National Office, Canadian Union of Public Employees (CUPE) St. Catharines Hearings)

Although the Internal Responsibility System is not defined in the Occupational Health and Safety Act, the Ministry of Labour's intent was always to use the system as the basis of the implementation of the Act. Yet the mechanics of the system and its implications have never been clearly articulated.

The Ministry's "Guide to the Occupational Health and Safety Act" describes the Internal Responsibility System in this way:

"Fundamental to the Act is the concept that employers and workers must share responsibility for occupational health and safety and that both must actively seek to identify hazards and develop responses to protect workers. This Internal Responsibility System assumes assessment of the system itself by employers and workers through the appointment of health and safety committees and representatives and through regular inspection of the workplace."

Under this system the Ministry of Labour expects workers and management to co-operate in the workplace and on the joint health and safety committees to clean up hazards.

However, the Task Force was told repeatedly that the Internal Responsibility System did not work. The imbalance of power between workers and management meant co-operation and information-sharing often broke down to the detriment of workers' health and safety. As long as management enjoy a monopoly over final decisions to clean up the workplace, health and safety conditions can never be improved to the satisfaction of workers.

The Ministry of Labour sees its own role as a facilitator to be called upon to assist in the resolution of health and safety problems that cannot be solved by the workers and management sitting down together.

The Ministry of Labour was reluctant to intervene and management could and often did ignore the concerns of workers. Workers viewed the Internal Responsibility System ultimately as a way in which the Ministry of Labour could avoid its own responsibilities as enforcer of the Act.

Furthermore, broad provisions or specific gaps in the legislation allow the Ministry of Labour to avoid taking a position and create irreconcilable problems for the Internal Responsibility System.

"The Ministry of Labour pushes an Internal Responsibility System whereby the company and union solve their differences and problems by themselves. Sounds

good on paper but in reality it does not work all the time. The company always has the last word - "NO!"."

(Don Fraser, United Steelworkers of America (USWA) Local 1005, Hamilton)

In some workplaces, rights which workers have been guaranteed under the Act have not been recognized and the companies involved are therefore acting in direct violation of the Act itself. In other cases, failure of the Act to set out specific workers' rights or failure of management to co-operate beyond the precise wording of the Act has led to failure of the internal system of co-operation.

The Establishment of the Joint Health and Safety Committees

Section 8 of the Occupational Health and Safety Act establishes the principle that each workplace with more than 20 employees must have a joint health and safety committee with equal representation from workers and management.

If the objectives of the Internal Responsibility System could be accomplished, the work of the health and safety committee would be fundamentally important in achieving internal co-operation to resolve health and safety problems. However, even in the establishment of the health and safety committees, the Task Force found direct violations of the legislated procedures. The Task Force also found the way in which management disregarded the health and safety committees' concerns was the first major impediment to cleaning up the workplace.

Office, retail and construction workers, and workers in libraries, theatres and social organizations, are specifically excluded from these provisions of the Act. This has meant that where employees do negotiate "voluntary" joint health and safety committees, they do not have the statutory powers under the Act which guarantee access to information or the right to regular committee meetings. In workplaces of less than 20 workers regardless of the work involved, there is no automatic right to joint health and safety committees. The Task Force was told repeatedly that the Act should be amended to establish committees in all workplaces.

Where there are legal rights to committees, making these rights a reality is another matter. In a submission by United Automobile Workers (UAW) Local 27 in London, representing more than 4,000 workers in 24 companies, Francis Perencsik spoke of the frequency with which worker representatives are appointed by management and therefore are management-oriented. For example, the management of Proto Canada in London initially allowed the union to appoint only one worker health and safety representative on a committeee while the company appointed the rest of the worker representatives. Since the Act (Section 8(5)) specifies that half the joint committee will consist of workers chosen by their union or by fellow workers, management does not have the right to appoint worker representatives.

In another situation in Toronto, workers faced similar problems in choosing their own appointments to the health and safety committee. At Jas F. Gillander Co. Ltd., a store fixture manufacturer, the company had appointed two management members to the joint committee but would only allow one worker. The United Brotherhood of Carpenters and Joiners (UBCJ) Local 2679 spent months corresponding with management and the Ministry of Labour seeking to have an

equal number. This right is guaranteed under the Act in Section 8(5), which states that "a committee shall consist of at least two persons of whom at least half shall be workers."

In many workplaces these minimum requirements of the Act are adopted and two member committees are put into place. It places the single worker in the untenable position of having to fight management alone for health and safety in the workplace. The worker has no statutory right to assistance by fellow workers. The enlargement of such small committees was seen as a priority for health and safety committee members in this situation.

In terms of enforcement, there are no requirements to file with the Ministry of Labour the names of health and safety committee members. It means that there is no central record of whether companies have set up joint health and safety committees or are meeting requirements of the Act. Where committees are required, yet not set up, it is impossible for the Internal Responsibility System to even begin to work. This is particularly important in unorganized workplaces.

At Irwin Toy Ltd. on Hanna St. in Toronto, where no union has been yet certified, workers have been exposed to methyl ethyl ketone (MEK), a toxic substance. Management reported to the Ministry of Labour that a joint health and safety committee was in place. However, according to the Ministry's own report of May 26, 1982 the company had contravened sections 8 (5) and 8 (10) of the Act. The worker representatives on the committee had not been selected by the workers and the company had never posted the names of the committee members.

Meetings

In practice, management often controls the health and safety committees by exerting its influence in those areas not clearly defined by the Act -- calling the meetings, setting the agenda, chairing the meetings and keeping the minutes. A code of practice for committees, promised at the time of the Act's enactment, has still not been developed.

Minutes of joint health and safety committee meetings are a necessary record of complaints, problems and promised solutions to hazards, a vital part of the Internal Responsibility system. However, the Act requires only that minutes of proceedings of committee meetings be kept. The minutes are also supposed to be made available for examination by Ministry of Labour inspectors, but the Task Force was told that inspectors rarely use this record to identify on-going hazards and violations.

The Act does not specify who will keep the minutes, whether the minutes need approval of both workers and management, or how disagreements will be resolved. The wide-open wording of the Act has meant problems for workers. In the case of a health and safety committee meeting at Canadian General Electric Co. Ltd. in Peterborough, a version of the meeting prepared by John Ball, of the United Electrical Workers (UE) Local 524 and a health and safety committee member, detailed a serious incident in the plant in which a worker was overcome by toluene fumes and rushed to hospital. According to Mr. Ball's evidence before the Task Force, management did not believe that the worker's troubles were caused by the toluene fumes and would not accept the union's typed record of the minutes.

Another problem is that the minutes of the meetings do not correctly reflect the concerns of the committee. In St. Catharines, Bill Craine of CUPE Local 1287 told the Task Force that controversial items have been either mentioned briefly or left out of the minutes prepared by the secretary of the committee, a management representative.

Failure to Resolve Issues

The Act is silent on resolution of problems through the joint health and safety committees. The result is that problems are often not resolved. There are no time limits or even requirements for management to act or respond. The committee can have access to information and identify hazards, but under the Act it can only recommend improvements to the employer. From there, there is no requirement upon the employer to act on these recommendations.

Workers observed that at the joint health and safety committee meetings, management rarely raised issues of any significance in terms of health problems. Almost every substantial item addressed at these meetings was initiated by the workers.

Since management has resources and authority to act upon the recommendations of the health and safety committee, if management does not support taking action the problem is not corrected.

Workers have stated that the ease of having a problem corrected is directly proportionate to the cost involved. It is relatively easy, for example, to have a yellow line painted on the floor, but impossible to force management to improve the ventilation in an area where it is badly needed. The Internal Responsibility System consistently breaks down when management will not voluntarily undertake improvements in the workplace to eliminate hazards.

Since companies resist accepting the financial costs of improvements, the Ministry of Labour should then become the final arbiter in these disputes. Where it is obvious that the Act or its regulations are violated or where "every precaution reasonable in the circumstances" (s. 14 (2) (g)) is not taken to protect employees, the onus should be on the Ministry of Labour to force management to make improvements in the workplace.

At Raybestos Manhattan Canada Ltd. in Peterborough, the Internal Responsibility System broke down completely. In November 1982 the union, Steelworkers Local 5141, withdrew its members from the joint health and safety committee to protest management's refusal to take any action on the frequent accidents in the plant. According to former health and safety committee member Ray Collet, the numerous accidents included several amputations in an 18-month period. Even the Ministry of Labour inspector, in the last year, described the Internal Responsibility System at Raybestos as "poor". The union has set up its own health and safety system within the plant to keep up its vigilance.

Management's Responsibilities

The Occupational Health and Safety Act, under Sections 14 and 16, directs employers to appoint front-line supervisors who are knowledgeable and responsible for the health and safety of workers, to inform workers of hazards, provide

information on proper procedures and "take every precaution reasonable in the circumstances for the protection of a worker." This is critical to the success of the Internal Responsibility System if workers and foremen on the shop floor are to resolve unsafe conditions. However, there is no test of competency for supervisors, and inspectors do not require supervisors to demonstrate that they are competent and responsible as defined under Section 1 (2) of the Act.

Front-line supervisors, who receive the first complaint on a work refusal, often are not trained or knowledgeable on the rights of workers under the Act. This has led to the failure to notify the Ministry, the failure to correct hazards or to the intimidation of the worker. At Allied Chemical Canada Ltd. in Amherstburg, when two pipe-fitters refused unsafe work on August 21, 1982, the supervisor told them the Act did not apply on Saturdays and refused to follow the procedure under the Act.

In some cases, front-line supervisors jeopardize their own health by doing work refused by workers.

Case Study #1: Canadian General Electric

In late 1980 workers belonging to the United Electrical Workers Local 537 noticed an unusually high number of their fellow workers had been diagnosed as having tumours. The workers, almost all of whom were women, worked in the small coil-winding department of Canadian General Electric Co. Ltd.'s Lamp Works plant in Toronto. At that time the department employed about 50 people.

The union brought this concern to the attention of the company in December 1980. The company doctor, Dr. Jack Richman immediately notified the Ministry of Labour. The union also raised the issue at the next regularly scheduled meeting of the health and safety committee in January 1981. Dr. Richman indicated that he would investigate and report back to the committee.

Over the next two years the union compiled a list of 24 of their fellow workers who reported to them that they had tumours, many of which were malignant. Of the 24 women, at least 5 died from cancer.

In March of 1981 Dr. Richman told the committee that there was "no abnormal incidence" of cancer and assured them that a written report would be presented soon.

For almost two years the issue of the high incidence of cancer in the coiling department remained on the agenda of the health and safety committee meeting. Workers repeatedly expressed concern at the delay in receiving Dr. Richman's report, and in April 1982, the minutes officially reflect the concern of the whole committee.

However, because the workers on the committee had no right to compel the company doctor to produce the report, they were forced to wait until the company wished to answer their concerns.

Finally after the local union presented this problem to the Task Force in September 1982, Elie Martel confronted the Minister of Labour in the Legislature. The company was forced by the ensuing publicity to agree to a proper epidemiological study.

Dr. Richman's report was finally given to the local president, Cathy Treacy, in October 1982, a month after her presentation to the Task Force. Contrary to Dr. Richman's statement to the health and safety committee in March of 1981, the report revealed a "higher than expected incidence rate of gynaecological and breast cancer among the workers in the coil-winding area."

In company press release of November 10, 1982 the company indicated that the report had been completed in November 1981, eleven months earlier.

The situation at Canadian General Electric shows that the Internal Responsibility System as it now exists only works when the company and the union are equally committed to making it work. Otherwise, management can ignore the union's concerns even when the situation is as serious as this one.

In this instance the Ministry of Labour was informed in December, 1980 of a potentially serious situation.

Yet it took two full years for the union to receive vital information from the company and almost three years for a proper epidemiological study to be undertaken in this plant. Surely it must be said that both the company and the Ministry have failed to make internal responsibility work.

RECOMMENDATIONS - INTERNAL RESPONSIBILITY

2. Internal responsibility must be redefined to ensure the right of every worker in Ontario to a healthy and safe workplace. This right includes the worker's right to participate, the right to inspect, the right to shut down any operation that is unsafe, the right to full wage-and-benefit protection as a result of any medical monitoring program or during any work loss or shut-down due to health and safety problems, the right to know, the right to refuse and the right to strict enforcement of the Act by the Ministry of Labour. These rights must be entrenched in the Occupational Health and Safety Act.

3. The Occupational Health and Safety Act must be amended to cover all workers in Ontario under provincial jursidiction.

4. All workplaces shall have the right to joint health and safety committees.

5. A code of practice for joint health and safety committees, consistent with the principles of this report, shall be immediately published. This shall include the number of workers on the joint committee, departmental representation and guidelines to ensure both union and management agree to the agendas and minutes of meetings, and guaranteed access by all workers to the information. This code of practice would require workers and management to co-chair the joint committee. Workplaces of 10 or more employees will have a minimum of two workers on the joint health and safety committe. In workplaces of less than 10 employees, the health and safety committee shall have a minimum of one worker.

6. Major employers shall have committees in each large department, the numbers of which would be determined by the code of practice.

7. On construction sites the union, or where there is no union, the workers shall designate one or more worker health and safety representatives to carry out inspection and investigation functions.

8. In workplaces other than construction the union or workers, in selecting the workers on the joint health and safety committee, shall have the right to designate one or more worker health and safety representatives to carry out inspection and investigation functions.

9. No worker shall suffer a loss of wages or benefits for work loss or shutdown due to health and safety problems.

10. Worker health and safety committee members and representatives shall have the right to shut down an unsafe work operation.

11. Worker health and safety committee members or representatives shall be protected from liability if they have acted in good faith.

12. The Act shall require health and safety committees to meet a minimum of once a month, or at the insistence of either party.

13. Health and safety committee members or representatives shall have the right to a complete workplace inspection at least once a month or at their request.

14. The Act shall include an arbiter to resolve non-regulated issues upon which the joint committee cannot agree. Issues covered by legislation or regulation should be strictly enforced by the Ministry of Labour.

III LACK OF ENFORCEMENT

"If the provincial police were to enforce the highway speed limits in the same manner as the Ministry of Labour enforces the Occupational Health and Safety Act, then the only thing on the highways doing less than 150 miles per hour would be a jogger."

Len Belford, Brian Demers, Gloria Puckerin
CUPE Local 503, Ottawa

Although workers acknowledged that the Act has been an important step forward in the struggle for a safe workplace, the effectiveness of the Act has been crippled by the Ministry of Labour's lack of enforcement.

Since the Act does not provide any mechanism for resolving disputes between management and labour at the level of the health and safety committee, the Ministry of Labour must exercise its authority to enforce the Act if workers are to be protected.

However, the Ministry of Labour has shown great reluctance to force companies to abide by the Act. Consequently, the Task Force was presented with many startling examples of workplaces where hazards had been identified and remained outstanding since the introduction of the Act.

By failing to enforce its own legislation, the Ministry of Labour has given a clear signal to industry that it does not have to fear the penalties set out by the Act. This has resulted in bitterness and frustration on the part of workers who believed that the legislation would mean significant improvements in health and safety.

Inspections of The Workplace

The extent to which companies are cleaning up the workplace under the Act is monitored by Ministry of Labour inspectors on regular tours. When the inspector visits a plant, he is accompanied by the designated worker health and safety committee member or representative. The inspector subsequently writes a report on the problems observed, giving either recommendations or orders for remedying the problems.

Case after case presented to the Task Force showed that inspectors would not force companies to comply with either the spirit, or in some instances, the letter of the law. This was the single most common complaint in submissions across the province.

Although the Act makes the employer responsible for taking "every precaution reasonable in the circumstances for the protection of a worker" (Section 14(2)(g)), inspectors would not take advantage of this broad language in the legislation to make recommendations or write orders that would result in specific improvements. Instead, the inspectors arbitrarily limited their own ability to force the company to clean up the workplace. They resorted to the most narrow and technical reading of the Act and regulations to avoid writing orders or taking positions that would be unpopular with management.

For example, in the Utilities Department at Stelco Inc.'s Hilton Works in Hamilton, two boiler operators refused to work because Stelco wanted to use an

unqualified person to put one of the boilers in operation. The two experienced operators felt that this constituted a dangerous situation for them. Although Stelco's own rules call for a qualified operator, the Ministry of Labour inspector called in would not uphold the work refusal because there was nothing in the Act that covered this specific situation.

Testimony was presented to the Task Force which has raised doubts about the commitment of the Ministry to enforce the Act. In particular, the Task Force heard of the ministry's reluctance to issue orders on ventilation and hazardous substances.

A pattern emerged that clearly showed the Ministry inspectors would refuse to require the company to clean up a workplace by issuing orders which involved extensive costs.

Not only were inspectors reluctant to write strict orders, they often overlooked outstanding hazards at the plant. Union representatives pointed out time and time again reports from inspectors that understated the gravity of certain problems in their plants or omitted significant issues raised by the health and safety committee member during the tour.

In many instances, after tours on which numerous safety violations had been pointed out, the inspectors did not write down many of the outstanding hazards. Instead, the inspector would urge the union to work it out with management.

Inspectors also asked specifically at the end of each tour if there were any unresolved problems. If the union said there were, the inspector would ask whether the problems were being discussed at the health and safety committee meetings. The inspector would consider the problem resolved if the matter was before the health and safety committee. This would happen repeatedly even though the continuing appearance of certain problems on the agenda of the health and safety committee clearly showed they were not being resolved. In this way, the inspectors absolved themselves of their obligations to ensure companies would find solutions to difficult problems.

At Rheem Canada Ltd., a water heater manufacturer in Hamilton, workers (USWA Local 6868) from an area where glass line water heaters are made have been exposed for more than four years to free airborne crystalline silica many times above the exposure guideline accepted by the Ministry of Labour. The initial alarm was raised in 1979 at one of Rheem's first health and safety committee meetings shortly after the introduction of the new Act. In spite of modifications to the silica spray booth and after four years of discussions with the company and the Ministry of Labour, workers are still being exposed to high silica levels. The most recent testing in September 1982 showed levels as high as nine times the guideline. In response to the highest levels detected in the last three years, the Ministry has given the company yet another year to control the silica.

Another common complaint heard by the Task Force was that even when inspectors did issue orders, the orders were often simply issued and re-issued by the Ministry after no action by the company without charges ever being laid against chronic violators.

In fact, according to the Ministry of Labour's most recent annual report 71,000 orders were issued from April 1, 1981 to March 31, 1982 in the industrial sector

alone. Of the 71,000 orders, 8,500 were orders that were repeated. Even when the companies involved had to be told at least twice to comply with these 8,500 orders, the Ministry of Labour only prosecuted 82 cases.

Firestone Canada Inc. is an example of a company which has been served with numerous repeat orders. Within a one-year period, from January 1981 to February 1982, 173 orders were issued at its Hamilton plant, including many repeat orders. On a tour, the Ministry inspector would find a guard missing on a particular machine and write an order for that machine. On his next visit the inspector would find another machine of the same type with the same problem and write a new order. Despite repeated violations of the same nature, the inspector has been reluctant either to close down a particular machine or to prosecute for breach of the Act.

Many workers described inspectors in their regions as having an anti-labour bias which they attributed to the Ministry of Labour's hiring practices. The number of Ministry inspectors drawn from the ranks of management outweighs the small number of inspectors coming from a labour background.

Although there was widespread dissatisfaction with individual inspectors, it was recognized that the inspectors were working within a framework of legal interpretations handed down by the Ministry of Labour's legal branch. These interpretations amount to an unpublished code of practice which have been used to re-interpret crucial sections of the Act. The decisions of inspectors, in accordance with the Ministry's interpretations, have stripped away rights workers believed they had under the Act.

In Sudbury, ambulance workers belonging to CUPE Local 2412 were disenfranchised from a joint health and safety committee because "workplace" was reinterpreted in July, 1982, by the Regional Manager of the Industrial Health and Safety Branch to mean each separate dispatch centre. There are not the minimum 20 workers required by the Act at any one of these dispatch centres, so Section 8 of the Act does not apply.

In the case of Wilco Canada Inc., the Ministry of Labour refused to lay charges against the company in London even though the company sent letters in December 1981 to workers who were the most militant against the excessive lead levels in the plant (see case study). In some cases the workers' were not healthy enough to return to work at lower lead exposure jobs, yet the letter said "if you do not accept this transfer, we have no alternative but to terminate your services with our company. You would not become eligible for Workmen's Compensation or Unemployment Insurance benefits". The Ministry excused their failure to take action regarding these letters under Section 24 of the Act, by explaining that workers had not exercised their right to refuse work under Section 23. To quote the Minister's memorandum of July 29, 1982, "it is difficult to prosecute successfully under Section 24 (1) or Section 14 (2) when an employee does not exercise his right under Section 23 (3)." Workers found they had no protection from threatening letters unless they specifically invoked Section 23 of the Act. This interpretation runs directly counter to interpretations made by the Ontario Labour Relations Board (OLRB). For example, in a July 23, 1980, decision in Gedraitis vs. Adelaide Building Services, the OLRB determined "that provision Section 24(1) does not, on its face, limit its protection or application to situations where a worker has refused to perform work."

Enforcement of Designated Substances

If the enforcement of the Act itself has not been rigorous, when substances have been regulated under the Act the Ministry has been even less vigilant in forcing companies to comply with the regulations.

The lead regulations have been in effect since August, 1981. Yet, the legal obligation of companies using or storing lead to produce an assessment and a control program have been ignored by many companies, often in spite of repeated orders to observe the regulations.

At the time of the Task Force hearings in September and October workers across the province -- from Thunder Bay where UAW workers at Hawker Siddeley Canada Inc. complained that no lead assessment had been done, to Windsor where workers at Windsor Bumper told the same story --companies were ignoring the new regulations.

When assessments had been done, they were often inadequate, with the company ignoring obligations in the regulations such as their duty to consult on the assessments with the health and safety committee.

In the case of Dow Chemical Canada Inc. in Sarnia a one-page vinyl chloride assessment was prepared by the company's manager of industrial hygiene. This assessment gave no information on the quantities being used or stored in and around the plant. The union did not accept the assessment and called in the Ministry of Labour.

Companies which have successfully stalled in completing their assessments are not forced to proceed with the introduction of control programs.

At Westinghouse Canada Inc. in Hamilton, testing done in the transformer division revealed levels of lead as high as 20 times the legal limit, demonstrating the urgent need to control lead levels in the paint shop. Despite two orders from the Ministry to produce a lead assessment and two orders to control lead exposures in the paint shop, Westinghouse did not comply with either directive for months until pressure from the union and in the Legislature finally forced the Minister of Labour to personally intervene.

The intention of the control programs required under the regulations clearly is to force companies to keep hazardous substances at a regulated level by introducing engineering controls , work practices, hygiene practices and facilities.

Control programs, as with assessments, require consultation with the joint health and safety committees. Again the role of the health and safety committee is limited to offering suggestions and recommendations. If there is a dispute, the committee have the right to call in an inspector. However, the union representatives lack the real power to ensure their recommendations are incorporated into the final control program.

Consequently, company control programs often become solely programs of "personal hygiene practices" and protective equipment, rather than the adoption of engineering controls. Although this is contrary to the spirit of the regulations, the Ministry has not acted to correct these abuses .

Because respirators and other protective devices cause considerable discomfort to employees, many workers take risks by not wearing them. Respirators also provide a false sense of security in cases where they are inadequate protection against the levels of some substances or the combination of certain substances.

For example, during an ammonia leak at Inco Ltd.'s iron ore recovery plant in Sudbury on February 4, 1983, a worker was overcome by fumes. The Ministry of Labour's own assessment on February 8, 1983 showed the worker's respirator was approved for up to 300 parts per million (ppm) for ammonia and that this respirator would be ineffective in the concentrations of greater than 500 ppm that the worker was exposed to during the leakage. Since the company did not sound the alarm to evacuate the building, the worker continued to work confident his respirator was protecting him. He soon after lost consciousness.

Penalties and Fines

In the few cases where violations are recognized and charges laid by the Ministry of Labour, the fines and penalties are no incentive for employers to clean up the workplace. Although the Act provides for penalties up to $25,000, or 12 months in jail or both, the average fine for a conviction under the Occupational Health and Safety Act has amounted to little more than $2,000.

For example, John Joseph Royal, an 18 year-old employee of Ontario Gypsum Ltd., died on September 23, 1981 by falling into a mixing vat of plastering compound. The Crown was able to prove that the management was responsible for removing the guarding over the vat in order to speed up production. Yet, the company was fined only $1,500 and the owner $500. This case is a tragic example of the value placed on workers' lives.

In contrast to the general practice of levying small fines, a recent Court of Appeal decision upheld a relatively large fine of $12,000 against Cotton Felts Ltd., a small Toronto manufacturing company, in a case where a worker lost his arm cleaning a machine. The Court's decision to uphold this fine has been viewed as a positive signal from the courts that fines should serve as a deterrent to employers who violate health and safety laws.

Although the Ministry of Labour is not responsible for the fines set by the judges of Ontario, many workers who have seen charges laid against employers for serious accidents or deaths in their plants did not believe that the Ministry of Labour pursued the companies with the kind of thorough investigation likely to result in a serious prosecution and conviction.

After an explosion blinded employee Terry Ryan, on November 19, 1979, in Westinghouse's transformer division of the Beach Road plant in Hamilton, Ministry officials did a quick investigation clearing the company of any responsibility. Stan Gray, the UE Local 504 health and safety representative in the plant, was dissatisfied with the Ministry's treatment of the case and exercised his rights under Section 8(9) to conduct his own investigation of the accident. His lengthy report implicated the company in its handling of toluol, the flammable solvent that caused the explosion.

Because of his report, the Ministry laid charges against the company. However, the charges, when they were laid, contained a number of errors including the date

of the accident. These errors would have resulted in the charges being thrown out of court if they had not been revised at the insistence of the union.

When the case finally reached the courts, it was repeatedly remanded. At the very point when union witnesses were about to give evidence, the Ministry prosecutor negotiated an agreement with the company, and all but one of the charges were dropped. The company pleaded guilty to a single charge and received a $5,000 fine.

At National Steel Car in Hamilton a young worker Andre Robillard was severely burned in a flash fire at the plant. When the Ministry of Labour refused to charge the company, even though an inspector was in the plant at the time of the accident, Mike Skinner, the chairman of the health and safety committee at the time, laid his own charges. The company was fined $20,000 on March 8 1983 --one of the highest fines levied under the Occupational Health and Safety Act.

Case Study #2: ROTHSAY CONCENTRATES
(now called Rothsay Division of Maple Leaf Mills Co. Ltd.

Wayne McTaggert and Gary Wierts of Energy and Chemical Workers Union (ECWU), Local 39 are health and safety committee members at Rothsay Concentrates in Moorefield, a company which produces high-protein feed meal. They have struggled with their company and the Ministry of Labour to get the Occupational Health and Safety Act enforced. Their submission to the London hearings illustrated the reluctance of the Ministry to take action against chronic violators.

In January, 1982 a worker believed he was instructed to climb into a feather pit and remove frozen feathers from a large beater. While he was working, the foreman not realizing he was there, turned on the beater and the employee became entangled. He required more than 200 stitches, with deep gashes near his eye and jugular vein and missed six weeks of work. The employer gave him a one week suspension. The Ministry of Labour inspector would not come to the accident because he did not consider it a "critical injury". Eight days after the accident, another worker exercised his right to refuse to enter the feather pit because there was still no warning device attached to the starting system for the beater. When the inspector was called in, he initially sided with the company, suggesting to the worker it was an illegal work stoppage. Only after considerable protest by the union did the inspector retract his interpretation and issue stop work orders until the start-up warning devices for the feather pit were in place.

When the Ministry finally did a full inspection of the plant on January 26, 1982, with the union health and safety representatives, the resulting report was 17 pages of recommendations and 72 orders, including failure to put guardrails over cookers, vats and pits, failure to have functioning eye-wash fountains next to chemicals, no start-up warning devices on conveyor belts and poor housekeeping in almost all parts of the plant with grease, ice, parts of dead poultry and blood on the floors. During this inspection, the union pointed out hazards of 27,300 litre (6,000 gallon) chemical tanks which had been noted by the inspector since May 1981; yet the inspector would not issue orders.

Two months later the company wrote the Ministry and said 31 of 72 orders had been complied with. The union protested that the company had misinformed the Ministry on more than 20 of these. The union received no response to their complaints until the NDP raised the matter in the Legislature. When the Ministry

finally inspected again, the inspector refused the union's request to inspect 53 of these outstanding violations.

Continuing union protest leading to further inspections produced more orders. Yet the Ministry refused to charge the company.

In March, 1982, another employee was injured, this time by a tallow hose which improperly had hot steam injected into it to clear a blockage. Although it was serious enough that the worker missed a month of work, it took the company 16 days to notify the union of the accident. Again the Ministry refused to charge the company.

Despite continued protest by the workers, the union and the NDP, the Ministry has laid no charges and has demonstrated its failure to enforce its legislation.

RECOMMENDATIONS - LACK OF ENFORCEMENT

15. There shall be time limits in which management must respond to recommendations of joint committees to clean up the workplace, such time limits to be enforced by the Ministry.

16. There must be strict enforcement of the Act by the Ministry of Labour.

17. Enforcement by the Ministry of the violations shall be immediate, as in the Highway Traffic Act.

18. Time limits shall be placed on all orders.

19. Time limits shall be introduced to ensure control programs are in place for designated substances.

20. Where there are reprisals taken by a company against a worker carrying out any responsibilities under the Act, the Ministry of Labour shall prosecute the employer. This shall be done in addition to any action taken by the worker to the Ontario Labour Relations Board .

21. The Ontario Labour Relations Board shall be given power to provide costs to workers bringing complaints forward.

22. When companies send letters of compliance of orders to the Ministry of Labour, they shall first secure the signature of the union to ensure their validity.

23. A coroner's inquest shall be mandatory in all workplace fatalities. Workers and their unions shall be automatically allowed standing.

24. The anti-labour bias of Ministry of Labour inspectors shall be addressed through better education and hiring procedures.

25 Ministry of Labour shall publish all interpretations of the Act and its regulations immediately upon making such interpretations.

IV THE RIGHT TO REFUSE DANGEROUS WORK

The right to refuse dangerous work, as it is described under Section 23 of the Act, is one of the most important rights awarded to workers under the Act. Section 23 gives a worker facing a hazardous job the right to refuse dangerous work, the right to have the refusal investigated immediately and the right to have the investigation undertaken in the presence of a union representative or a health and safety representative. After the company's own investigation, any further dispute over whether the job is hazardous enough to justify a work stoppage is supposed to be resolved by calling in an inspector from the Ministry of Labour.

The Task Force heard evidence from workers that the strength of the right to refuse dangerous work, as provided by the Act, has been undercut by the Ministry of Labour's practices in handling work refusals. Consequently, many workers are finding it is not to their advantage to refuse hazardous work.

On a temporary work project in Windsor, for example, members of CUPE Local 543 renovating an old court house, Mackenzie Hall, began to suspect that they were being exposed to asbestos. The building had not been inspected for asbestos although later testing showed asbestos was indeed present. Nor were any of the "Ministry of Labour's Guidelines for the Removal of Asbestos" being properly observed. In an attempt to force the City of Windsor to take proper precautions, one worker, Marc Blanchette, refused to work on three separate occasions.

Mr. Blanchette first refused to work on November 3, 1982 unless he was provided with a proper mask and clothing. He was sent home by his superior. He, and two co-workers who also refused, returned to work when they were given protective equipment. However, two days later it was felt that the project still was not being run according to the asbestos guidelines and Mr. Blanchette again refused to work on November 5, 1982. A Ministry of Labour inspector, who happened to be touring the building at the time, did not treat the incident as a work refusal and management sent Mr. Blanchette home again. A third work refusal came on November 19, when workers returned to work to find that the foreman did not have proper protective clothing or masks available. The supervisor told the employees that they were laid off and the job was closed down. Despite three work refusals and two Ministry of Labour orders to follow the guidelines for the safe removal of asbestos, the renovation work was never carried out in a way that satisfied the union's understanding of the Act and its regulations.

In Ottawa the Task Force was presented with an example of a situation where the Ministry of Labour would not co-operate with the union (CUPE Local 1400) to protect the health of a worker who believed she was working under unsafe conditions. Employed by the Ottawa Board of Education, a female employee who operated duplicating machines was suffering headaches and other health problems from working in a closed room all day long. Although she did not exercise a formal work refusal, the woman had a doctor's certificate advising her to work less hours on the machines. The assistance of the Ministry of Labour was requested when the Board of Education and the union could not resolve the problem. The inspector said that it was an internal problem to be dealt with by the health and safety committee of the Board in spite of the fact that a memo on the subject of spirit duplicators had been sent to the Board by the Ministry of Education. The memo instructed the Board to protect employees working on duplicators because liver damage could result from long-term exposure to methyl alcohol. The employee

was subsequently shifted to another job but returned to her old job when the Board replaced the duplicating machines with a photocopier.

The onus of refusal by workers in unsafe situations can also pit worker against worker. In a work refusal, a steelworker at a copper refinery in Sudbury would not work unsafely with uncapped tie rods coming out of the furnace. The refusal was at 5:30 a.m. on February 10, 1982. It took the inspector three hours to arrive. In the meantime management sent all 10 workers in that production area home, even though they were not doing the same dangerous job. In situations such as this there is no guarantee that workers other than the worker who refused will receive lost wages due to production shut downs from unsafe conditions.

The Ministry of Labour has been encouraging companies to treat work refusals as though the employee was merely informing the company that a hazardous condition exists. Under Section 17, a worker is obliged to report an unsafe condition. Thus, many employees who refuse to work under conditions that jeopardize health find that their work refusals are not being treated as such by either the company or the Ministry of Labour.

If the work refusal is treated as a report, the refusal does not have to be investigated with a health and safety representative and the worker may never get a decision on the dangers of a particular job.

"Inspectors have been asserting that the rights workers have under Section 23 can only be exercised if there is a prior use of their responsibility under Article 17. But the refusal right in the Act is absolute, not contingent. It seems the Ministry is trying to re-write the Act because it is too favourable to the workers here. At any rate, it is certainly doing a service to the employers allowing them to circumvent the procedures set up by Legislation."

> Hamilton Area Occupational Health and Safety Committee, Hamilton and District Labour Council

A work refusal on October 15, 1982 at Aerofin Ltd. in Gananoque confirms this interpretation. A worker refused to use coal oil to spray a machine because it would fog the room. Although the Ministry of Labour was called, the Ministry telephoned the plant manager back. The plant manager then informed the Ministry that no problem existed and it was not necessary for the Ministry to come in. When the health and safety representative, Bill Bolton of UE Local 522 talked to the Ministry to find out why an inspector had never arrived, he was told that the problem came under Section 17 and that the union should work it out with management.

The right to refuse work in unsafe conditions is the fundamental protection a worker requires. If a worker faces reprisals such as suspension, loss of pay , demotion or job loss for refusing unsafe work, there is ultimately no protection at all.

As representatives, Bill Bolton and John Lameront of UE Local 522 said: "To us, a serious problem with the Act is that a worker can still be suspended, downgraded, disciplined or lose wages for discussing or reporting an unsafe condition to the company ... workers have suffered penalties and even layoffs as a result."

Although employers are legally prohibited from taking reprisals against workers under Section 24 of the Act, workers have found in reality that they are often

penalized for taking a stand over health and safety issues.

Although the Act prohibits the firing of workers who have refused to do dangerous work, many workers have found themselves reassigned to menial or dirty jobs as a form of punishment.

The fear of reprisals or penalties is so strong that many workers accept dangerous work although they know they should refuse. This is especially true for seasonal workers or workers still in their probationary periods who do not want to jeopardize their prospects for more permanent employment by offending their employers.

In Ottawa, members of CUPE Local 503 are hired by the City of Ottawa every winter to keep the city's sidewalks free of snow. A fleet of Bombardier snow removal machines are used by the City. On at least nine occasions over the last two years, City workers have been overcome by carbon monoxide fumes as they sat in the cabs of the "Bombs" for up to 12 hours at a time clearing snow. All have gone to hospital for medical attention.

Despite the problems with nauseating fumes, workers who refuse to take out the "Bombs" because of fume problems do not declare formal work refusals. Therefore, the mechanical problems causing the fumes have never been effectively repaired. The next worker offered the machine usually takes it out. Workers are not anxious to be regarded as trouble-makers despite the fact that certain "Bombs" in the fleet have caused health problems for a number of operators.

Although Section 24 was written to protect workers against reprisals, the procedures in the Act for challenging reprisals leave few options. The union or the individual can take a case of reprisal to the Ontario Labour Relations Board or to arbitration. This places the onus on the worker to bring forward his or her own case, and can result in a long and expensive procedure that falls on the worker. The OLRB has no authority to award costs to the worker or union for bringing the case forward, often making such actions financially prohibitive.

The Ministry of Labour may also prosecute the company that has taken reprisals. However, even if the Ministry wins the case, there is no guarantee a fired worker will get his or her job back. It is clear that the Ministry of Labour has not been aggressively challenging employers who acted against an employee in violation of Section 24. In fact, there has never been a conviction by the Ministry of Labour under this section.

Case Study #3: Work Refusals at Dresser Canada Inc., Industrial Products Division,

Workers at fabrication plant Dresser Industries Inc. in Cambridge have found through experience that work refusals are no guarantee that unsafe workplaces will be cleaned up. The workers members of USWA Local 5475, make valves, gauges, cranes and, until recently, drilling rigs.

In March 1982, an inspector noted 38 lost time accidents in a three month period, and 45 accidents in another three month period. One inspector noted this was far in excess of anything reasonable for this type of operation.

Workers began to exercise their right to refuse unsafe work as a means of cleaning up immediate dangers in the workplace. Yet they found that even rights given to

them under Section 23 of the Health and Safety Act, such as the right to an investigation and the right to wages lost due to work refusals, were not always respected.

In May, 1981, a worker refused to move a heavy load by means of a push button controlled crane because the area he was to work in was hazardous. He followed the proper work refusal procedures, but Dresser management refused to investigate and rectify the problem. Instead, the company sent the worker home and docked his pay. It required Ministry of Labour intervention, at the union's request, to reinstate his lost wages. Even then, although the inspector agreed Section 23 had been contravened, no charges were laid or orders issued about contravention.

In November, 1981, a worker refused to work inside of a crate suspended by wire, five metres above the ground. There was no safety harness and no one safeguarding the controls on the plant floor while the worker was suspended. He was threatened by his supervisor with loss of wages and he returned to the hazardous work.

In March, 1982, 38 workers refused to work in an excessively smoky area of the fabrication plant where tests by the Ministry of Labour had found welding fume levels above the Ontario guidelines of 5 mg/m^3, and where ventilation had been found inadequate. Again, instead of following procedures under the Act, management suspended the workers' pay and sent letters on March 12, 1982 threatening dismissal if they were to exercise their legal right to refuse unsafe work again. The union had to take the matter to the Labour Relations Board before the company reinstated the wages. The Ministry of Labour took no action to restore the wages, and only "transmitted a message" to the company that it could not take away a worker's statutory right to refuse unsafe work. No punitive action was taken against the company for the letters threatening dismissal or for lost wages from the 38 work refusals.

In this case, workers were forced to use work refusals because of the complete breakdown of the joint health and safety committee. Yet, even the work refusals did not guarantee that hazards in this plant, including concerns about welding fumes, carbon monoxide, noise, asbestos, zinc, lead, aluminum, and isocyanates were reduced. The Ministry issued 82 orders in 1982, 10 per cent of them were repeat violations. Yet the Ministry never laid a charge. Days after the local made its submission to the Task Force, the fabrication plant was shut down and workers indefinitely laid off.

RECOMMENDATIONS - RIGHT TO REFUSE

26. Sections 23(1) and (2) of the Act shall be removed thereby giving all workers the right to refuse unsafe work.

27. Workers shall be given the right to group work refusals.

28. The right to refuse shall be extended to include conditions causing stress, including assault or attempted assault.

29. Workers shall have the right to full wage and benefit protection as the result of any work loss or shutdown due to work refusals.

V WORKERS' RIGHT TO INFORMATION

"The more information and knowledge a worker has, the greater the chance of survival in the workplace."

Don Fraser, USWA, Stelco Local 1005

The difficulties in acting effectively as a health and safety committee member or representative were compounded by the problems of acquiring accurate and useful information or, in many instances, acquiring any information at all.

Toxic Substances

Thousands of chemicals are in constant use in the workplace yet very little information is available on the hazards of these chemicals.

Although the Act does include a provision that employers are obliged to provide information to assist in recognizing hazardous conditions (Section 14(2)(a)), and committee members have a right to information under 8(6)(d)(i), these sections have done little to ease the difficulties in obtaining information on hazardous substances.

The basic data available on any workplace chemical is contained in Material Safety Data Sheets. These sheets are compiled by the suppliers of a chemical to provide employers with information on flammability, and other hazards.

The law does not require employers to have safety data sheets; nor does the law require the manufacturer to supply them. Where health and safety committee members or representatives tried to take advantage of their rights to information under the Act, they found the companies either did not have the information, refused to release it or did not offer the information to their committees.

For example, in the case of International Harvester Truck Centre (now Bay City International Ltd.) in Hamilton, the workers requested Material Safety Data Sheets on the 48 questionable substances in use in their plant. The company then asked the union to list these substances and submit the list to them. The company claimed after several months delay that they did not know where to look for the information. The only information that the health and safety committee received was data sheets on half the substances and these data sheets were provided by DuPont Canada Inc. and C.I.L., two of the company's suppliers.

The onus of identifying hazards then fell squarely on the shoulders of the union or an aggressive health and safety representative or committee member. Hazards were only rarely identified by management or Ministry of Labour officials.

However, even when Material Safety Data Sheets were available, these sheets were seriously limited in the kind of information they provided. Workers still needed to know the generic names, which were not given on these sheets, rather than trade names, if they wanted to search further for scientific studies on any controversial chemicals. They also needed to know the chemical constituents of any complex chemicals so that chemical additives could be identified and the toxicity of any additive determined.

Because the material safety data sheets are provided by the manufacturers of the chemical, the most serious deficiency in this information is any suggestion of the damaging long-term effects on human health, particularly after repeated exposures.

At Canadian General Electric Canada Ltd. in Peterborough, the union found the kind of information presented in the material data sheets was so minimal they could not properly assess the real dangers to human health. Four workers, from UE Local 524, working with a certain kind of cutting oil broke out with very serious skin rashes. Because the Material Safety Data Sheet on the cutting oil was so vague, the workers, although they believed their rashes were caused by the cutting oil, did not have access to more explicit information that could confirm their suspicions.

In general, there was much better access to information where the chemicals were established as designated substances such as asbestos and lead. In the case of both substances, workers were more aware of where these chemicals were being used in the plant and the importance of protecting workers from excessive exposure to them. However, in spite of the well-recognized hazards of both these substances, the Task Force found instances where foremen and supervisors still downplayed the problems with these substances.

In Cambridge where some employees of the City were working on brake linings while others were cutting asbestos pipe for sewers without any protection, a health and safety committee member found that these workers had not received information from management about the dangers of asbestos.

In the case of the chemical industry, workers at Dow Chemical Canada Ltd. in Sarnia explained that because of the sheer number and complexity of the chemicals in use in their industry, inspectors from the Ministry of Labour did not always have the extensive knowledge necessary to easily identify chemical problems in their plants. This meant the majority of problems identified by the inspectors related more often to violations of safety procedures than to chemical hazards.

Representatives of ECWU Local 914 at Polysar and ECWU Local 672 at Dow in Sarnia felt that they had better access to information on the hazards of particular chemicals than most other plants in Ontario. They were supplied with data sheets by the companies and acted as unofficial clearing-houses for workers anxious to obtain information on chemicals.

Community Right to Know

The Task Force also heard from several community representatives about the importance of uncovering information on toxic substances that would be available not only to workers, but to the community at large.

Because of the awesome number of toxic substances in use today, it was felt that the transportation, storage and use of chemicals which could be hazardous should be reported to city governments as well as to the workers handling the chemicals. Peggy Simpson, a councillor for the City of Windsor, described her efforts to draft a "right to know" bylaw for the City that would include requirements for disclosure on the toxicity of chemicals, on their transportation and storage and on the need for a uniform labelling system.

Inappropriate Testing and Monitoring

The Task Force was told repeatedly that one of the weaknesses of the Act is the failure to guarantee that a designated health and safety committee member or representative will accompany an inspector from the Ministry of Labour or a company official while conditions in a plant were monitored.

Since either the company or the Ministry make the decision about when and where to do the testing, the health and safety representatives feel that they must be present to observe the conditions under which the monitoring is conducted.

Many workers told the Task Force of situations in which inappropriate testing was done, without their input.

In Westinghouse Canada Inc. in Hamilton, the Ministry tested for solvents in the paint shop without testing for paint particulates and lead at the same time. The Ministry ignored the combination of hazards that workers would have been exposed to at the time the testing was done. Later on, the Ministry chose to test for lead in the same department on a day when the type of paint being used in the shop had the lowest lead content of any paint used by the company, rather than testing at a time when painters would have been exposed to very high lead levels under more representative conditions at the plant.

On another occasion in the same plant, in an area where welding fumes were very dense, the Ministry tested in January 1982 for carbon monoxide, even though carbon monoxide was not the major hazard from this type of welding. When their tests showed insignificant levels of carbon monoxide, the Ministry -- in spite of the obvious problem -- gave the area a clean bill of health. Later tests showed welding fumes and oxides of nitrogen above the guidelines.

In Ottawa, in response to a CUPE Local 503 complaint that fumes inside the cabs of snow plow machines were sending their workers to the hospital with nausea and headaches, a Ministry of Labour inspector investigated on March 18, 1982, only one machine by turning it on for 10 minutes and testing for carbon monoxide.

No orders were written on the basis of the low level of carbon monoxide detected under these conditions. The inspector did not even test the machines that were causing the workers the most serious problems and ignored the fact that the problems developed after the employees had to sit in the cabs for 12-hour shifts, not 10 minute intervals.

Workers also found that they were not properly informed of the company's communications with the Ministry, particularly in the areas of testing and monitoring, and that they were not always given copies of reports on testing when they were done by either the company or the Ministry.

In another case, American Can Canada Inc. in Simcoe was using silica-based dusting powder which aroused the concern of the workers using the material. The company instituted procedures for handling the powder until testing could be done to determine the levels of silica. When the testing did not occur, union officials, trying to find out why, discovered that the company had written to the Ministry indicating that they were no longer using the product. Although the company did stop using the powder temporarily for several weeks, the company began to use the

product again. Ron Rowbottom (Simcoe Can Workers' Union Local 535), using this example, stressed the need for the union to be fully informed of all communication between the company and the Ministry of Labour.

The Ministry of Labour is obliged to post any order or report and give a copy to committee under Section 29(6) of the Act. However, where samples are collected by Ministry officials, there are often excessive periods of time before the results are conveyed to the union or workers. Library workers in Sudbury, members of CUPE Local 207 waited eight months from September 1981 to May 1982 for the results of a sample taken by an inspector showing 50 per cent chrysotile asbestos. Yet the report was dated shortly after the sample was taken.

Rights to Information and Investigation of Accidents

When a death or critical injury occurs in a workplace, the health and safety committee members or representatives are guaranteed the right to do their own investigation under the Act (Section 8(9) and Section 7(8)). However, the definition of "critical injury" has often been used by management to bar unions from investigating accidents. Since the Task Force finished its hearings, a more detailed definition of "critical injury" has been published in the Ontario Gazette, and it remains to be seen whether this will clear the way for workers to do important accident investigations. For example, outside city workers in Sudbury, members of CUPE Local 6, were not allowed to investigate an accident where a sidewalk plow rolled over on a man causing him to be off work for five months. Because the City of Sudbury did not concede that the accident was "critical", the union was never notified or allowed to investigate.

Health and safety representatives repeatedly pointed out that only by doing their own investigations of these accidents can they determine the circumstances that resulted in the accident. They felt it was crucial to understand the conditions that contributed to any accident in order to avoid similar accidents.

Although the Act explicitly guarantees their right to accident reports (Sections 25(1) and 26(1)), many committee members and representatives reported that they were unable to obtain these reports without applying pressure to management.

Case Study #4: Access to Information at Ferranti Packard Transformers Ltd.

In March 1980, five workers in the insulation department of Ferranti-Packard Transformers Ltd. in Toronto refused to work. The workers, members of U.E. Local 525, had been unable to get information on a new insulating material called GPO-3 "glastic board" which they were cutting and fitting for the inside of transformers. The workers had been experiencing severe headaches, loss of co-ordination and runny eyes.

The inspector who investigated the five work refusals took a sample of GPO-3 glastic board for analysis. The inspector reported the testing was done; yet the union waited and waited for the results. On October 6, 1980, seven months later, Don McMillan, Local 525 president, sent a letter to the ministry's chief hygienist asking for the information promised.

The chief hygienist responded through management to the union that the sample had been tested but the results were confidential. The plant health and safety committee then directed the management health and safety co-ordinator to try again to obtain the information; he was apparently turned down again. McMillan wrote another letter December 16, 1980 requesting the information and never received an answer. The right given to worker health and safety committee members under the Act to receive a copy of the report was not recognized.

Our Task Force received a copy of this "confidential information" in a brown envelope after we began to investigate the matter. The report was dated March 31, 1980, the same month as the sample was taken. It states that the GPO-3 glastic board contains styrene. Styrene is a highly toxic substance which in the short term irritates the eyes, nose, throat and skin. In the long term it can cause skin disease, exacerbate chronic respiratory disease and possibly impair the liver and kidneys.

When confronted in the Legislature by this failure to give access to important information to workers, the Minister of Labour produced a communication to the union president stating that Mr. McMillan had received the information. Yet it was dated a full nine months after the union's initial request, even though the test results were available within 25 days of the sample being taken. In any case, the union never received the communication and wrote the Ministry again saying the local never had a response to its requests for information. Why would the Ministry not respond to this letter, if it had released the information?

Most important, the Ministry would not give access to the information on the toxic substance and it did not take any responsibility to conduct air monitoring or to order the local ventilation needed to eliminate the hazard at the source. To date, the union has been left in the dark on these issues.

RECOMMENDATIONS - WORKERS RIGHT TO INFORMATION

30. Health and safety committee members or representatives must be present when all testing or monitoring is done to ensure that proper procedures are being followed, under representative working conditions.

31. Health and safety representatives shall have the right to do their own testing and monitoring, and the right to bring in their own experts for the same purpose.

32. Health and safety representatives shall have the right to be notified and participate in any accident, or safety-or health-related investigation.

33. In addition to posting inspection orders, copies shall be given to the unions representing the workers.

34. Companies must forward copies of all monitoring reports and copies of all correspondence between them and the Ministry of Labour to members of the health and safety committee and their unions.

35. Labelling requirements shall be implemented on all chemicals in the workplace, so that containers readily display chemical composition and generic names, handling precautions and associated hazards.

36. Safety data sheets shall be standardized with trade name, generic name, chemical composition and quantity, physical data, handling information, associated health hazards including results of short-term, animal and epidemiological testing done.

37. The Ontario government shall ensure access to health and safety information, particularly material such as safety data sheets, inspectors' reports, assessment and control programs as required by the designated substance programs, and testing reports.

38. Workers must have the right to generic names and chemical composition of substances in use in their workplaces. Workers shall have rights to all the information recommended in #36 on safety data sheets.

39. Companies should have no right to market or use products if they will not give full disclosure of chemicals used and file the information in a central registry. Information which companies call trade secrets, patent rights, or proprietory rights shall not take precedence over health of workers.

40. A copy of the Act (paid for by the employer) shall be given to every employee and supervisor and the Act shall be made available in other languages.

41. There shall be a community right to information so people know what toxic chemicals are being used, stored or transported in the community.

VI MEDICAL MONITORING

"Medical monitoring is being substituted for workplace monitoring. Workers are still being used as guinea pigs to detect workplace chemical hazards."

> Teena Flood, UE Local 524, Canadian General Electric Company Ltd., Peterborough

Medical monitoring refers to the practice of gathering information on workers' health. This monitoring includes not only pre-employment physical examinations but also more specialized examinations that reflect exposure of workers to toxic chemicals.

Because of the sensitive issues involved in the practice of medical monitoring such as confidentiality of medical records, many workers are insisting on strict agreements as a condition of their co-operation with monitoring programs.

CUPE Local 1348 in Windsor has referred their union's objections to pre-employment medical examinations required by the Essex County Board of Education to the Ontario Human Rights Commission. Prospective employees of the board have been asked questions related to the mental health of their families. The union has argued that such inquiries are not job-related considerations and are insulting to the dignity of the person undergoing the medicals. The Board has also been using their doctor for these examinations rather than allowing prospective employees to consult their own doctor.

Many workers also expressed concern that the confidentiality of medical records was not being respected. Medical monitoring was seen as a way in which employers could obtain information on workers that later could be used against them in claims before the Workers' Compensation Board.

As Ken Glassco of ECWU Local 914, of Polysar Ltd. in Sarnia said:

"The use of extensive medical monitoring leaves no doubt in my mind that information of this type is not only used for monitoring the workplace and our bodies but could be used as a detriment to the well-being and health of the workers."

Where the company has its own doctor or nurse on staff, workers regarded the medical staff as employees of the company, representing the interests of the company, and not the workers.

Workers also felt that medical monitoring shifts attention from the hazards in the workplace to the worker. In certain plants monitoring the workers was used as a substitute for monitoring the workplace. This would result in companies removing individual workers from jobs involving the use of hazardous substances when the workers showed signs of damage such as lead poisoning instead of taking measures to remove the hazard.

In another situation, at Canadian General Electric Company Ltd. in Peterborough, workers in an area of the plant where silver soldering was done were exposed to

cadmium as a result of the soldering. According to health and safety committee member Teena Flood, these workers were monitored for cadmium in their blood. However,this test is of little or no value in indicating environmental exposure.

This is also consistent with the way in which employers respond to evidence of unacceptably high levels of toxic chemicals or physical hazards. As a substitute for proper controls, employers have instead engineered the workers to suit the environment by insisting on the use of personal protective equipment such as ear plugs or respirators.

Control Programs

The regulations on designated substances, such as lead, provide another avenue for collecting information on the health of workers. The new regulations require, in addition to monitoring levels of these substances in the workplace, that workers be tested for their exposure to these chemicals.

A key issue for workers in submitting to these monitoring programs is the question of who does the examination.

At Aerofin Corp. (Canada) Ltd. in Gananoque, UE Local 522 has resisted the company's efforts to require workers to use the services of a doctor chosen by the company to monitor blood lead levels. The union has been successful in its efforts to allow workers to be tested by a doctor of their own choice. They are searching for a doctor who will keep their medical records confidential, and who will simply advise the company whether a worker is fit, fit with limitations or unfit, as the regulations require.

As part of Ministry of Labour's interpretations of the Act for use by their inspectors, the Ministry's legal department has prepared a letter to a company who asked for an interpretation on the issue of who does the medical monitoring. This letter indicates that the intention of the regulation was that the physician be the company physician. While the Ministry is attempting to interpret the Act in favour of companies, as John Lameront and Bill Bolton of UE Local 522 told the Task Force:

"Law is determined by what the Act and regulations say, not what the authors may have intended. Nowhere do the Act or the regulations say 'company physician'. They only say 'physician' or 'examining physician'."

Workers' Clinics

The best medical treatment we found for workers was the assessment, treatment and counselling which has been done by the Hamilton Workers Occupational Health Clinic. Doctors at the clinic have not only the specialized expertise to deal with occupational health and disease, but they also have provided medical care which serves the needs of the workers, not companies.

The clinic does not receive any provincial funding other than the medical claims processed through OHIP; the bulk of the funding is from Steelworkers Local 1005.

In addition to treatment, the clinic has worked as advocate, identifying hazards in the workplace. In some cases, the clinic has been instrumental in having dangerous chemicals replaced by less toxic substances.

Despite the valuable work undertaken by the clinic, both the Ministry of Health and Ministry of Labour have been reluctant to fund worker-controlled clinics. Since they would provide both medical treatment and preventive care in a specialized way, these services are a desirable alternative to company doctors.

RECOMMENDATIONS - MEDICAL MONITORING

42. Medical monitoring shall be voluntary, not mandatory.

43. Workers who choose to undergo medical testing have the right to a doctor of their choice.

44. Medical monitoring must be paid for by management.

45. Medical monitoring must be work-related.

46. All medical information must be kept strictly confidential unless the worker approves release of the information and the information should not be used by the employer in any way that could affect the employee/employer relationship. General prehiring medical release forms now required by companies should be made illegal.

47. Independent occupational health clinics shall be established in every major industrial city, and shall be funded collectively by employers. These clinics shall be worker-controlled.

VII REGULATION OF TOXIC SUBSTANCES AND WORKPLACE HAZARDS

The Occupational Health and Safety Act sets out the framework and general policy for health and safety in the workplace. The regulations issued under the Act were to provide the working tools for enforcement. There are two types of regulations: those covering particular sectors -- industrial, construction and mining -- and those covering toxic substances and other physical hazards. Submissions to the Task Force raised concerns about the inadequacies of the regulations in place, the enforcement of the regulations and failure of the government to move quickly enough to regulate in other areas.

There are currently over 25,000 known toxic substances in the workplace, with more than 500 new substances being introduced each year. Yet to date, the Ontario government has regulated only five designated substances: asbestos, mercury, lead, vinyl chloride and coke oven emissions. The government is in the process of designating silica, noise, and isocyanates, and has given notice of eight others to be regulated under Part X, Section 41(2) 14 of the Act.

Deficiencies in the Regulation Process

The regulation process is slow, complicated, and ultimately fails to protect workers by not requiring the elimination of the hazard. Essentially, the process takes place behind closed doors. While a single public meeting has been added towards the end of the designation process, the fact that the regulation is not provided before the meeting and the way in which the meeting is conducted essentially stifles any serious debate. The Ministry has no obligation to publish a written justification for the actual standards it sets and while it is clear that cost-benefit considerations of some kind do enter into the deliberations, there has been no open discussion of or justification for them. The Ministry argues that the Advisory Council on Occupational Health and Safety provides the format for the necessary review by all parties. However, its mandate does not include the evaluation or alteration of the actual levels set or any requirement in the standard. The result is that the regulatory system lacks accountability, to the detriment of worker's health.

In 1978-79, the Ministry of Labour issued a priority list of 52 biological and chemical substances and physical agents to be regulated. Yet the Ministry has fallen far behind on its proposed schedule to regulate many hazardous substances despite pleas by unions. The result is that thousands of substances used daily across the province are unregulated by any government legislation.

The Unregulated Substances

Unregulated substances fall into two categories: those subject to exposure guidelines, and those which have no guidelines for their use at all.

But for workers, even the guideline approach adopted by the Ministry has often proved to offer little or no protection from harmful substances. First, the guidelines are not enforceable by law. Second, the process by which the guidelines are set is both confusing, and suspect.

Without the ability to enforce guidelines for so many substances, workers find the guidelines are almost useless. For instance, workers who had fought for protection against asbestos before it became a regulated substance appeared before the Task

Force in Windsor. In this case, a Windsor Board of Education employee was exposed to asbestos and alleged that management had failed to inform him of the hazards, or to provide him with personal protective equipment. CUPE Local 27 charged the Windsor Board of Education under the Occupational Health and Safety Act. The judge ruled that since there was no asbestos regulation, he could not judge whether the worker's health had been jeopardized. The decision of the case was a major setback for workers exposed to unregulated substances.

The implications for other workers is clear. With only five regulated substances, they are left with little protection from exposure to many toxic chemicals. In a case presented to the Task Force, workers at Canadian Trailmobile Ltd. in Brantford had been exposed to isocyanates for more than 12 years. Testing over the past few years had shown exposure to the substance in the foam insulation spraying operation to be above the guideline of .02 ppm set by the Ministry. Initially, workers were not given any protection from the substance. Then, under pressure from the union, the company provided personal protective equipment --described as "primitive" by the Ministry -- in the form of a plastic bag over the workers' head with an attached air hose. Workers suffered respiratory problems and one 1980 Ministry test showed 10 of 35 workers with lung function abnormalities. Yet the company was not charged, nor is it likely to be because there is no regulation on isocyanates. In the absence of regulation, the company cannot be forced to provide either proper ventilation or, at the very least, effective personal protective equipment approved by the National Institute for Occupational Health and Safety (NIOSH). Only through the aggressive efforts of the UAW have gains now been made.

The other major problem with the guidelines is the way in which they are set. Submissions to the Task Force expressed many frustrations over the fact that the Ministry of Labour is changing the terms and method of measuring toxic substances in the workplace. And the result has been confusion for labour, management and even the Ministry's own inspectors.

Under Section 20(8)(f) of the Act, intended for the control of toxic substances, the Ministry issued in 1981 a discussion booklet called "Exposure Criteria for Potentially Harmful Agents and Substances in the Workplace." The booklet, known as the yellow booklet, will form the basis for exposure levels of toxic substances. Yet it is overly complex and fails completely to identify those substances which are known or suspected carcinogens. And the booklet assumes that there is an acceptable level of risk, an approach which implicitly acknowledges that workers will experience health effects at levels below those set out.

The real confusion comes when trying to determine exactly how the Ministry intends to set guidelines or regulations. On the one hand, it seems to have reverted entirely to using Threshold Limit Values (TLVs) produced by a private American group called the American Conference of Governmental and Industrial Hygienists (ACGIH), while at the same time using the term Time-Weighted Average Exposure Limits to describe its approach. On the other hand, the Ministry has introduced a new element of confusion by its method of measuring exposure limits. Rather than measuring substances over an eight-hour workday -- as required when using TLVs -- the Ministry has moved to measuring them over a forty-hour work week. The result has been the mystification of data given to workers by the Ministry inspectors, doctors, and hygienists, and a lack of clear enforcement.

In his submission to the Task Force, Dr. Jaime Meuser of the Toronto Occupational Health Resource Committee criticized the Ministry's decision to introduce the Time-Weighted Average Exposure Limits (TWAEL):

"The eight-hour TWA limit used by the ACGIH and other standard-setting agencies is difficult enough to enforce; the Ministry has made enforcement even more difficult by opting for a 40-hour time-weighted average limit or criterion.... Given that the burden of proof in prosecutions for non-compliance lies with the Crown, the Ministry has saddled itself with the onerous task of collecting enough evidence to prove that the average exposure over the course of an entire week has exceeded the limit ... it would be simpler to base exposure limits on the same principles which underlie the breathalyser principles of the (Criminal) Code. In these, evidence of non-compliance is strictly defined in terms of threshold reading."

The guidelines in the yellow booklet are under public review. But promises by the Ministry to hold public meetings on the levels proposed in the booklet have been delayed for months, and even when they are held labour is not necessarily included. In the case of one meeting held on PCBs, industry was notified but CUPE -- whose Hydro workers are exposed to PCBs probably more often than any other group -- was not. Colin Lambert of CUPE, in his submission in St. Catharines, said:

"It is just an illustration of the contempt and depth of anti-labour feeling of the Occupational Health Branch. We suggest that they would not treat the International Nickels, the Stelcos, the Ontario Hydros, or any of the employers in this province in a similar fashion."

And when workers have been asked to make presentations at meetings reviewing the guidelines in the discussion booklet, they have had difficulty in obtaining or have been refused the supporting documentation commissioned by the Ministry of Labour.

In St. Catharines, a submission by UAW Local 199 gave further evidence of the Ministry's dubious approach to reviewing the guidelines. In an appeal on an order resulting from a work refusal by a General Motors of Canada Ltd. worker in St. Catharines, the Director of the Ministry's Occupational Health Branch ruled that the TWAEL for polychlorinated biphenyls (PCBs) should be 50 times the level proposed in the Ministry's discussion booklet. He set this level after receiving scientific evidence from General Motors and after carrying out a telephone survey of major industrial users of PCBs. The survey indicated the current levels of exposure in industry and what was reasonably achievable. The director then selected the highest of these levels, five times higher than the level of exposure achieved at the GM plant, and rescinded the original order against the company. So even where an exposure criteria is proposed, it is subject to re-interpretation by the Ministry, based on what industry wants.

Noise

Despite the promise to regulate noise, the Ministry of Labour has never acted to curb workers' exposure to excessively high noise levels. As a result, hundreds of workers have been victimized by industrial deafness.

According to testimony presented to the Task Force by John Lennie of the USWA Local 1005 even one case of industrial deafness is one case to many since industrial deafness is a totally preventable problem. Although the Ministry of Labour has considered setting 90 decibels over an 8 hour period as the exposure limit, Mr. Lennie argued that even much lower levels could cause problems for workers.

Many workers complained that no attempt was made to limit the noise in their plants. Instead workers were forced to wear earplugs or muffs to protect their hearing, a practise which can cause infections for many workers.

Even though noise could be successfully engineered to a minimum, there was no attempt by companies to use techniques such as spreading machines out over a larger area, or using building materials to absorb sound. For example, in a new spike mill at Stelco's Hilton Works where noise could have been engineered down to acceptable levels, the noise in the new mill consistently registered over 100 decibels, a level bound to damage the hearing of workers in the plant.

Cancer

"When it comes to a carcinogen there is no 'socially acceptable risk' as the Ministry of Labour would have us believe. We're tired of their body counts."

Don McMillan
UE Local 525, Toronto

There are 111 known human carcinogens according to the International Agency for Research on Cancer, and a further 100 suspected carcinogens based on animal tests. Yet of the designated substance regulations, only three regulate cancer-causing agents in Ontario. Where there are regulations, they do not advocate substituting less dangerous substances for cancer causing chemicals.

Workers continue to be exposed to dozens of cancer causing substances, about which they have no information because of trade secrets. Workers have no protection because these substances aren't regulated, and they have no choice but to work because they need their jobs.

Heather Webster of the Amalgamated Clothing and Textile Workers' Union (ACTWO) told the Task Force that most textile workers are not aware that the benzidine dyes they commonly use are a leading cause of bladder cancer. The textile workers have unsuccessfully tried to get the Minister to regulate benzidine, and to require substitution of less hazardous chemicals.

The Advisory Council on Occupational Health and Occupational Safety recently has proposed a cancer policy for Ontario. While the requirement for pre-market testing of any new chemical and the testing of all chemicals now in use is essential for the protection of workers, the notion of setting "acceptable levels" for carcinogens is unacceptable. Just as in the designated substance regulations,

workers in Ontario are denied the right to an open justification of safe levels. The issues at stake are basic human values. Workers have a fundamental right to participate in the decision and to have the decision justified to them. To move the decision into the realm where only scientists and economists can participate is fundamentally undemocratic. It also jeopardizes health.

Those making submissions to the Task Force demanded clearly that the government require pre-market testing of all new chemicals. Michael Hutsulak of the United Brotherhood of Carpenters and Joiners (UBCJ) Local 2679 urged that the government clearly prohibit the introduction of any new carcinogen into the workplace. Less dangerous chemicals should be required to be substituted for cancer causing substances wherever possible. Independent short-and long-term animal testing must be undertaken instead of the current testing by the manufacturers who stand to profit. Chemicals now in the workplace should be categorized and workers should have full access to that information. Most importantly, there needs to be an immediate generic cancer regulation that protects workers against known carcinogens until such time as they are fully regulated.

Labour has presented an alternative regulatory strategy for the testing, classification and removal or control of all toxic substances, physical agents or work processes. Fundamental to their approach is the assumption that all chemicals and physical agents are guilty until proven innocent through independent testing.

Each employer would be required to provide a written inventory of all chemicals, physical agents and work processes, complete with chemical formulations, generic names, amounts used and workers exposed, to the Ministry of Labour and to be posted in the workplace to ensure that every worker has the right to know exactly what he or she is exposed to in their work. From a set date, each employer would need to notify the Ministry and their workers of any intention to introduce a new chemical, agent or work process and fulfill all of the testing requirements and control measures before the substance is introduced.

All new chemicals would have to be thoroughly tested in short term and long term animal testing and then classified as to their potential carcinogeneity before they are allowed into any workplace. Where new chemicals are found to produce positive results in any of the tests they would be classified as confirmed or suspected carcinogens and would not be allowed to be introduced into any workplace. All chemicals presently in use should be thoroughly tested and classified within five years, and any chemical found to cause cancer in humans or suspected of causing cancer from animal or short term testing would be immediately controlled to a no detectable level until such time as a "safe" tested substitute is available.

All testing would be carried out by independent testing facilities or by approved international agencies and the cost must be borne by those employers or groups of employers who wish to use the substance.

Overseeing this approach would be a permanent committee comprised of a majority of labour representatives who would approve all of the testing requirements, the

classification system and any exemptions to the elimination or control strategy. A labour majority can assure that decisions are made by those who must assume any risk.

A generic approach to the testing, classification and elimination of cancer causing agents in our workplaces provides an automatic system which avoids the time consuming process that the designation of individual substances involves. There are no lengthy debates about the extremely controversial and value laden approach of risk assessment, cost-benefit analysis or the establishment of what some call "acceptable levels of risk". There is just no debate about how much cancer is too much since the purpose of the regulatory exercise is surely to prevent all cancer in the workplace.

Reproductive Hazards

"By failing to identify and control our exposure to hazardous workplace conditions, we not only risk our own health, but we are gambling with the health of future generations."

Shelly Acheson
Ontario Federation of Labour Women's Committee

The National Institute for Occupational Safety and Health (NIOSH) has identified 1,800 chemicals associated in one or more studies with reproductive abnormalities which affect workers' ability to have healthy children. In its submission to the Task Force the Ontario Federation of Labour Women's Committee expressed great concern over the thousands of other chemicals, processes and conditions of work which may pose dangers to reproductive health, but which are completely unknown.

Shelly Acheson told the Task Force that the Ontario government's policy on reproductive hazards excludes women from employment in higher paid industrial jobs. For example, the lead regulation requires male workers to be removed from exposure at .70 milligrams per litre (mg/l) of blood lead levels. Men are deemed fit for exposure and must return to work when their blood lead count drops below .50 mg/l. Yet women capable of bearing children are required to be removed at .40 mg/l and if a woman is pregnant she is to be removed immediately. These measures --removing the worker instead of the hazard -- serve to exclude women from employment in higher-paid industrial jobs. They also penalize men by exposing them to greater risks of reproductive and blood damage. The American standard removes both men and women from exposure at blood lead levels of .40 mg/l, a level that workers in Ontario have demanded as a first step. However, workers agreed the long-term goal should be to eliminate exposure for all workers to substances such as lead.

Genetic screening programmes are another tactic of industry to hire "healthy workers" instead of cleaning up the workplace. Evidence of this in Ontario is hard to find, but the Institute of Industrial Relations in California has published evidence that Dow Chemical Co. in Texas has for ten years conducted pre-employment testing and blood analysis to screen out workers with genetic damage or a chromosomal susceptability to damage. Removal of "high risk" workers is no substitute to cleaning up the workplace, and the Ontario government has not investigated employment and medical monitoring procedures to ensure this is not happening.

Just as the government needs to move immediately to identify carcinogens and legislate a generic regulation, it also needs to test for the other harmful effects of chemicals. This would include a chemical's ability to cause birth defects or genetic changes. Generic regulations are needed for all substances that can cause reproductive damage as a stop-gap measure to protect workers and their children.

RECOMMENDATIONS - REGULATION OF TOXIC SUBSTANCES AND WORKPLACE HAZARDS

48. Every effort must be made to reach a "no exposure" level on any substance not proven 100 per cent safe. The burden of proof that there are no adverse health effects shall rest with the manufacturer.

49. There must be pre-market testing of all chemicals and testing of chemicals on the market.

50. Current guidelines for limits of exposure that are being regulated shall be considered a minimum requirement, with the goal to be reducing exposure to zero.

51. We support the OFL's cancer policy paper, including:
-pre-market testing and classification of new chemicals and of all chemicals currently in use;

-those classified as carcinogens or potential carcinogens by short term or animal tests should be removed from the workplace and replaced with safer products. Until such time as this removal is possible, companies and employers shall decrease exposure to the no detectable level.

52. There must be a generic cancer regulation to protect workers against exposure to any carcinogen.

53. There must be a generic regulation to protect workers against reproductive hazards.

54. The government must move quickly to introduce the long-promised regulations for the health care and education sectors.

VIII WORKER EDUCATION

"We see a world of difference in the plants where the Act has been studied and an attempt made to enforce it and those plants where workers are struggling along, not even aware of their rights on the job."
David Christopherson, UAW Local 525, Hamilton

The Occupational Health and Safety Act clearly places the responsibility for carrying out key provisions of the Act such as inspecting the workplace, identifying hazards and investigating accidents on the shoulders of the workers. However, the Act makes no provision to ensure that workers are properly informed of their rights and responsibilities as described in the Act.

Section 17 (1) (a) states that a worker shall work in compliance with the provisions of the Act and regulations. Yet the only guarantee that workers will have access to the Act is the provision under Section 14 (2)(h) which requires companies to post a copy of the Act in every workplace. Even this guarantee has not been met by employers such as Windsor Bumper where at the time of the Task Force hearings the company still had not posted a copy of the Act "on any wall in the plant" that the workers could find. In another case that illustrates the difficulties workers face in learning the Act, Stelco provided only one copy for over 300 workers in part of their massive Hilton Works operation.

Many workers paid tribute to the Ontario Federation of Labour for its highly successful training courses which the majority of health and safety committee members and representatives appearing before the Task Force had taken. The OFL's "30 hour certificate program" has been a key factor in making workers aware of their rights and in teaching them how to use the Act effectively in their workplaces. Because the course is taught by health and safety representatives who have taken a specialized teaching course, also run by the OFL, and who volunteer their time to teach, a large number of workers have had access to valuable training.

However, despite its success, the OFL's training program does not have guaranteed funding and operates from year to year by applying for provincial lottery funds and a Ministry of Labour grant. On a minimal budget of $1.3 million for the last 3 years, the OFL has trained more than 4,000 students.

In contrast, the well-funded training programs of the nine accident prevention and safety associations were not regarded as useful by workers. The accident prevention and safety associations' educational programs are funded out of the Workers' Compensation Board assessment of companies operating in the province and received over $27 million in 1982 alone. Workers appearing before the Task Force described the associations' courses as management oriented programs which emphasize the carelessness of workers as the cause of accidents. Most workers did not feel these courses made any contribution to their knowledge of the Act.

Many workers who have been trained in health and safety by the OFL have returned to their plants to find that management, supervisors and even their fellow employees do not know either their responsibilities or their rights under the Act. This has led to confrontations between management and health and safety committee members and representatives, trying to establish such rights as the right to refuse dangerous work or the right to investigate accidents, and foremen,

who either do not understand or who do not want to recognize their obligations under the Act. Many examples were cited to the Task Force of violations of the Act -- for example, foremen who do not call in the health and safety representative or the Ministry where a worker has exercised the right to refuse, or foremen who violate the Act by ordering other workers to substitute for a worker refusing a dangerous job.

At Union Carbide in Welland where workers are represented by UE Local 523, a worker's right under Section 23 (4) to call in a health safety representative or committee member to investigate a work refusal was challenged by management who apparently did not know the procedures set out in the Act. When an employee refused to use an air hammer under conditions he considered unsafe, the foreman challenged the worker's right to have the health and safety representative called in. The issue was resolved only because of the persistence of the health and safety committee member who knew the Act and who threatened to call the Ministry in if the foreman did not co-operate.

Several submissions also raised the need for education of immigrant workers in their first language. Heather Webster of the Amalgamated Textile and Clothing Workers Union, at the Task Force Hearing in Toronto, spoke of the difficulties textile workers, many of them immigrant women, face in understanding their rights in the workplace because of language problems.

The Ministry of Labour has not produced copies of the Act in any language other than English or French and there are virtually no health and safety courses in major languages such as Italian, Portuguese, Chinese or Greek.

Workers' knowledge of health and safety and their rights under the Act should be developed not only through special training courses but should also be an integral part of the province's public education system.

RECOMMENDATIONS - WORKER EDUCATION

55. The Act shall ensure that all union health and safety representatives complete the Ontario Federation of Labour Certificate program within a specified time of their election or appointment to a health and safety committee.

56. Education of all workers will be undertaken with the employer paying lost-time wages and shall be available in the language spoken in the workplace.

57. Ministry of Labour must ensure a system of training for supervisors, including a requirement to certify competence as required under Act.

58. Mandatory health and safety training is urged for the public school system for all students, using a curriculum approved by representatives of labour and management.

59. An amount of money equivalent to the amount currently allocated to the Accident Prevention and Safety Associations shall be given to a worker health and safety association run by the OFL to train workers, both organized and unorganized.

IX EXCLUSIONS

"The most difficult fabrics are the velours. The nap comes off and gets all over everything in the house, and the air is filled with it. The dust from the fabric is very fine -- the consistency of flour. If I am sewing with velour fabric, my nose begins to run blue. My doctor says it's no good for me to sew this material, even though I am taking allergy shots, but I need the money. Now I usually tie a handkerchief mask over my nose and mouth when I am sewing."

(Homeworker, Toronto)

This statement, quoted in a submission to the Task Force, exemplifies the health problems confronted by workers excluded from the Act. These workers, including farmworkers, homeworkers and teachers, have absolutely no legal protection against hazards in the workplace.

Farmworkers

Mutale Chanda of the Canadian Farmworkers' Union told the Task Force of serious health problems facing the 50,000 full-time and 100,000 seasonal farmworkers in Ontario. Farmworkers face increasing hazards from exposure to pesticides sprayed on vegetables and fruits. Yet those workers have no right of access to information on the health effects of pesticides or the proper handling procedures. Women tobacco pickers experiencing numbness in the hands complained to the Ministry of Labour and they were told the Ministry had no mandate to investigate pesticides.

Other legislative restrictions, prohibiting the organizing of farmworkers into unions, mean that workers cannot even negotiate health and safety protection into contracts, nor can they be protected by a union. In an increasingly automated industry, accidents are becoming more commonplace. At Wellington Mushrooms Ltd. in Picton, the mushroom farm is an assembly line operation, and work is performed year-round indoors. Yet the Ontario Labour Relations Board ruled in 1980 that the operation was still farm work since the workers handled soil in the farm/warehouse.

Gary Cwitco, representing the Health and Safety Committee of the Metro Toronto Labour Council, spoke of the exclusion of farmworkers and other workers from the Act. He told the Task Force of assurances by the Ministry of Labour at the time the Health and Safety Act was passed that farmworkers would be included:

"It was recognized that farmwork is one of the most hazardous occupations in this province, and the accident rate will certainly bear that out. We were assured by the Ministry it was just a matter of time until the regulations were developed to include farmworkers. Well, it's four years and it still hasn't happened, and that needs to change. When you have sectors of the economy excluded from the law, that certainly doesn't allow workers to have equality in the law."

Cwitco recommended that there should be no categories of workers excluded by the law.

Teachers

Teachers and their representative federations were initially excluded from the legislation at their own request. Yet many found they had abdicated rights which were necessary to their good health in the workplace. Teachers made submissions to the Task Force in several cities, expressing concern that they had been excluded. In Toronto, the Federation of Women Teachers' Associations of Ontario, representing 30,000 elementary teachers, outlined their three-year struggle, since the Act's inception, to be brought under the Occupational Health and Safety Act. Hazards faced by teachers include exposure to communicable diseases such as lice, to poor ventiliation and to toxic substances in art rooms, science rooms, industrial shops and duplication areas.

The Ontario Public School Men's Teachers Federation raised, among other issues, stress-related illness from increased class sizes and the changing nature of education, (for example, mandatory special education). To quote:

"Heart disease, ulcers and nervous breakdowns are three of the most common symptoms (of stress). Over the last five years, the incidence of members suffering emotional breakdown have increased by about 25 per cent each year."

Almost every submission made to the Task Force by teachers raised the unknown dangers of work with video display terminals which are increasingly common in the educational system.

Homeworkers

Homeworkers, people who do their work at home, are also excluded from the Act. In a submission to the Toronto Task Force hearings, Laura Johnson from the Department of Sociology at the University of Toronto,the author of Seam Allowance, pointed out the hazards of working in the home, including poor ventiliation, and stress created by long hours and the double load of simultaneously caring for children and working. There are an estimated 7,500 people doing homework in Ontario, most in the garment industry.

The effects of textile work in industrial settings are well-documented, but the potential hazards and incidence of respiratory diseases associated with garment work in the home are unknown, including the potential hazard to children and other family members. Health and safety inspectors cannot visit a homework place without prior agreement of the owner, or a search warrant. Arbitrary access to the homes of these workers is not desirable because of the prospect of intimidation. Yet the health hazards faced by these workers must be seriously addressed, and a full discussion of who is responsible and of the measures to eliminate unhealthy conditions must take place before legislation is changed.

Furthermore, the increasing trend towards homework, including the relocation of clerical jobs such as putting data on to video display terminals (VDTs) in the home, makes the possibility of an "electronic cottage" industry a reality. In her brief, Ms. Johnson stressed that the time has come to creatively address health and safety conditions in the home workplace.

Selective Exclusions from Provisions of the Act

Many other workers are excluded from particular rights under the Act. Firefighters, police and workers in correctional facilities, training schools and observation homes are not entitled to refuse unsafe work under any circumstances. Workers in hospitals, nursing homes, psychiatric or other mental health or rehabilitation facilities, ambulance drivers, laboratory workers, laundry workers, food service workers, all have the right to refuse unsafe work only in cases where the refusal does not jeopardize the life, health or safety or another person. The problem with this category is that it has been broadly interpreted to mean the workers have the right to refuse in virtually no circumstance.

An example of this was a work refusal by Mary Lou Ruttan of OPSEU Local 226, a residential counsellor at Mid-Western Regional Centre, a retardation facility operated by the Ontario government. Ms. Ruttan was seven months pregnant when a patient in the residence in which she worked was identified as a hepatitis B carrier. She was concerned about putting herself and the unborn child in danger of contracting hepatitis. When she exercised her right to refuse, the Ministry of Labour inspector informed her she did not have any right to refuse unsafe work. However, both management and the union agreed that by refusing to work she was not placing any patient in "imminent jeopardy."

On a verbal appeal by the union to the London regional office of the Ministry of Labour, Ms. Ruttan was told that she could not refuse work because there were no health care regulations under the Act. Twenty days later, Dr. James of the Occupational Health Branch issued yet a third and different interpretation of her right to refuse. He wrote that her unborn child was at high risk of contracting the hepatitis but that she was not. Therefore, since foetuses were not explicitly covered under the Act, her work refusal was not upheld. Questions in the Legislature led to a new interpretation by the Ministry which clearly indicated that women had the right to protect unborn children.

Firefighters - The Right to Refuse

Not having the right to refuse has placed groups like firefighters in an untenable situation. According to Frank Durocher of Local 455 of the Firefighters, when a fire breaks out in a plant where a number of different chemicals are stored firefighters may have no knowledge of the kinds of substances or the quantities to which they must expose themselves. This also applies when firefighters clean up chemical spills. In addition, many chemicals interact or react to heat, producing new hazards. It is the responsibility of the senior officer on the scene to evaluate the situation and to decide whether to risk the lives of the men fighting the fire. However, the officer must make this decision without knowing where the chemicals might be stored or what the danger from the chemicals might be. Without the option of the right to refuse, workers are forced by law to take risks in many situations where the risks cannot be properly evaluated.

If they are not allowed to refuse, firefighters feel there should be strict "right to know" legislation which would force companies to identify the chemicals they are using, where they are stored, the hazards associated with these chemicals, and the proper medical treatment in the event of exposure.

Retail Workers - The Right to Health and Safety Committees

Retail workers are also excluded from rights under Section 8 of the Occupational Health and Safety Act on the assumption that places like supermarkets and other retail outlets are not hazardous workplaces. Retail employees, along with many other workers, have therefore been denied the right to joint health and safety committees.

However, Diane Holland of United Food and Commercial Workers Local 633 gave many startling examples of situations in supermarkets that were hazardous. For example, in the meat department, water on the floor often doesn't drain properly and employees operate bandsaws while standing in water. Employees are exposed to toxic fumes from the polyvinyl chloride film used to wrap meats and produce when the film is cut.

Retail workers faced additional hazards of poor storing of merchandise, and long hours on their feet; cashiers face cold and draft from check-out counters close to doorways. Organized Working Women, in their submission, cited a 1981 survey done by the Ontario Retail Council of United Food and Commercial Workers on the health effects of "ring and bag" systems. Under the system, cashiers must lift products and pass them over a computer reader with one hand while ringing up with the other. More than 80 per cent of all surveyed cashiers reported experiencing negative health effects while more than 20 per cent had continuous or frequent pain in one or more parts of their body. A full 62 per cent reported back problems caused by repetitive forward stretching for articles and bending to bag them. In addition, the computer surveillance of "ring and bag" cashier work creates enormous stress for the workers.

Because of their exclusion, retail workers also have no right to regular inspections, and inspectors visit as infrequently as once every three years.

RECOMMENDATIONS - EXCLUSIONS

60. Section 3 of the Act must be removed. No worker shall be excluded from the Health and Safety Act.

61. All the rights and provisions granted to workers in these recommendations must apply to all workers.

X VULNERABILITY OF THE UNORGANIZED

"There is always the problem that if you complain too much in the workplace, the employer would say; "Well if you find it unsafe, you should probably go and find some other kind of work."

Susan Meurer,
unorganized VDT operator

If there was one area of concern about which the Task Force could not get adequate information, it was in the area of unorganized workplaces. It is clear that workers in all sectors who do not have union representation have not been made fully aware of their rights under the Act. As well, most of these workers would not come forward to the hearings for fear of reprisals by their employer.

Yet those who did come forward gave ample evidence to suggest that the Act is not working for them, and that the problems in the unorganized workplace are even more severe than most of the cases documented in this report. Workers at Wilco in London, for example, have been exposed to excessive levels of lead, and have suffered debilitating health effects. The case study of Wilco in this section graphically illustrates the problems faced by unorganized workers.

Video display terminal (VDT) operators, the majority of whom are unorganized and work in offices, have virtually no protection under the Health and Safety Act. One unorganized operator making a submission to the Task Force said:

"It's a controlled function, working on a VDT or computer. Your working situation is completely controlled, you don't have any control over your work process. It is a very stressful working situation, in most cases low-pay, unorganized female workers who even now have few rights and very little protection. Some of the concerns of people in my workplace is where do we go, to whom do we go with our concerns and our unorganized workplace. The Ministry would not come out to test our terminals even though at management's request."

When an unorganized VDT operator at Petrosar's corporate office exercised her right to refuse work on the VDT because she was pregnant, the Ministry inspector did not uphold her refusal in his decision because "the VDT is not likely to endanger the worker or another person". The worker sought assistance from organized workers in the plant and with the help of the Energy and Chemical Workers Union won her case. Most unorganized workers do not have access to unions to help back them in their efforts to protect their health.

Worker intimidation, failure to establish committees and the Ministry failure to enforce are experienced in workplaces across Ontario. The unorganized are particularly vulnerable.

The effectiveness of the Internal Responsibility System in non-union plants is completely unknown.

Bray W.D. Rivett Company Ltd., a plant in Gananoque, has been organized for only two years. Prior to the workers becoming members of United Electrical Workers, there had been no discussion at all on health and safety. In a submission to the Task Force in Ottawa, John Lameront of UE Local 522 said that in eight years there had been only one Ministry inspection the workers knew about, and no health and safety committee was set up when the Occupational Health and Safety Act was proclaimed.

Contracting out is another means of transferring hazardous work conditions from a unionized shop to a non-unionized workplace where workers are not always aware of the hazards. In a UAW submission at the London hearings, workers at Northern Telecom Canada Ltd. expressed these concerns. In June 1982, a beryllium-copper alloy was to be machined in the company's tool room. Two workers refused the work. The Ministry upheld the refusal and issued extensive orders regarding beryllium alloy machining. The company instead contracted out the work to unorganized workplaces and the Ministry accepted this contracting out as compliance with the orders. Yet there was no follow up by the Ministry to ensure these unorganized workers were protected from exposure. After the Task Force submission, questions were raised in the Legislature, and the Ministry is now monitoring the contracting out in this workplace. However, the Task Force is not convinced that efforts are being made to correct the larger problem of the Ministry accepting the practice of contracting out to unorganized workplaces as compliance with orders, with no follow up to check those new workplaces working with a toxic substance.

Voluntary health and safety committees in organized workplaces have little ability to encourage their employer to clean up the work site but still have recourse to negotiations. Unorganized workers concerned with health and safety, however, have to rely entirely on the Ministry of Labour to support their positions. When a dispute arose between workers and management over whether fume hoods were necessary to ventilate a hospital where workers were inhaling potentially carcinogenic drugs, the Ministry admitted fume hoods were necessary but did not order the hospital to ventilate. Without a union, there is no other body to negotiate health and safety matters for the workers when the Ministry fails to initiate clean up orders.

In addition, employees who have witnessed others losing their jobs over health and safety problems in these situations are afraid that by raising these issues they will lose their jobs.

Bruce Doern from the Centre for Policy and Program Assessment at Carlton University, in his study done for the Royal Commission on Asbestos, concluded:

"...the job of the inspector in the small unorganized establishment is made particularly difficult by the tenuous position of the employee. It is almost trite to point out that the Internal Responsibility System cannot operate effectively where a worker thinks or fears that he jeopardizes his job every time he lodges a complaint. Prohibition of reprisals notwithstanding, an employer can almost always find some excuse to dismiss an "obstreperous" employee."

Case Study #5: Wilco Canada Inc.

The complete vulnerability of the unorganized was made clear at the Task Force hearings in London, when workers had the courage to tell their experiences at Wilco. Wilco Canada Inc. in London is a plant which manufactures tubular products for automotive and refrigeration industries, employing 190 workers in 1982.

Early in 1982 workers found that 20 employees had had lead poisoning within an eight-month period, and at least three of these had become sexually impotent. The company had violated both the Health and Safety Act and the lead regulations. It failed to inform workers of the hazards of working with lead. After some workers contracted lead poisoning the company provided inadequate respirators. It failed to post results of air sampling and monitoring in the workplace. There was no joint health and safety committee in place. There were inadequate facilities for washing up and eating, so contaminated clothing was being taking home. Also a lead assessment as required by law had not been undertaken, nor was a lead control program in place.

In December 1981, 16 employees who were off work from lead poisoning were sent letters saying that if they did not return to the plant, to lower risk work at lower pay they would be ineligible for workers' compensation or unemployment insurance benefits, and would be fired. The NDP raised this in the Legislature but after a flurry of meetings and orders, little seems to have changed.

Several workers who had suffered serious health effects appeared before the Task Force. Brad Tunks was a tube mill assistant who was given no information on the hazards of lead when he started work in February, 1981. By November of that year, he was experiencing irritability, stomach cramps, headaches and excessive sleepiness, all signs of lead contamination. Blood tests showed excessively high levels of lead, and he was removed from his work. However, he too received a letter threatening dismissal and returned to work in January, 1982. By March the lead poisoning was so severe he required hospitalization and special drugs to clear the lead from his body. With no union to represent him, Brad attempted to fight the company, but was passed between the Workers' Compensation Board (WCB), the Ontario Labour Relations Board, and the Ministry of Labour. At the end of July, the WCB cut off Mr. Tunks' benefits because his blood lead levels had dropped although some of the health effects were still present. Simultaneously, Wilco laid him off saying they had fulfilled their staffing requirements. To date Mr. Tunks is still waiting for an appeal hearing for WCB.

This is one story of many. Another person at the Task Force hearings told of four workers, aged 18 to 23, who were off work from lead poisoning. WCB sent them back to work when their lead levels dropped below .50 mg/l, and the next day they were laid off. Dan Wood, another Wilco worker, told the Task Force that conditions in the plant had not improved since the Ministry had issued orders. The lead control program had been designed by management without worker consultation and still no ventilation has been put in place to remove the lead. Mr. Wood relayed how workers were still getting sick from lead contamination.

Yet the Ministry has not enforced the Act or the lead regulations. It has failed to protect workers who are struggling to have a union, the UAW, but to date do not have that protection and representation. The Minister of Labour told the NDP they would not prosecute the company for reprisals under section 24 of the Act because the workers had not exercised their right to refuse under section 23.

Finally, in April 1983 the Ministry laid charges against Wilco. They charged six of the workers for failing to wear respirators, and they charged two supervisors and the company for recent violations. One charge against Wilco was laid under Section 24 (1) for reprisal against a worker who exercised his right to refuse. The charges have not yet been heard. The Ministry has never moved against the letters threatening dismissal. Nor have they moved to correct the lead hazard in the plant which has been the cause of the health problems of Wilco workers.

RECOMMENDATIONS - VULNERABILITY OF THE UNORGANIZED

62. The greatest health and safety protection for the unorganized will be achieved by amending the Ontario Labour Relations Act (OLRA) to facilitate organizing workers into the unions which can provide the most protection to their rights.

63. Special protections must be developed and incorporated into the Act to protect unorganize workers including:
- central reporting of committees to the Ministry of Labour.
- central reporting of inspections and follow up to unorganized plants.

64. There shall be guaranteed funding to community occupational health and safety groups such as Windsor Occupational Safety and Health Council (WOSH) in each major industrial centre to carry out vital education and advocacy work. This is particularly important for unorganized workers.

XI SPECIAL SECTORS

There are many special sectors for which there are no specific regulations, yet for which a number of problems exist. Daycare workers, social service workers and others appeared before the Task Force explaining the problems this creates. In other cases, the Act has explicitly excluded a sector. Elliot Lake miners for example who fought for health and safety protection in Ontario still have not acquired the same rights for themselves.

a) OFFICE WORKERS

"Due to recent innovations in office technology, office employees find themselves exposed to an environment drastically different from that of years past. The introduction of Xerox copy machines, video display terminals and teletype machines, for example, expose operators to new hazards affecting their physical well being."

> William Dickerson, Mid-Canada Council, Office and Professional Employees' International Union (OPEIU)

Many workers appearing before the Task Force were working in offices. Their complaints were universally similar; the hazards of office work are not taken seriously by management and the current legislation inadequately protects them. The fact that office workers are expressly excluded from having joint health and safety committees, under Section 8 (b) (i) of the Occupational Health and Safety Act, confirms this.

More than 80 per cent of office workers are women, the majority of whom are unorganized workers in banks, insurance companies, law offices and other non-unionized workplaces. These workers need the protection of strong legislation. There are not even specific regulations prescribing safety standards for office work. Workers in are offices currently administered under the general provisions of the industrial regulations, which are totally inappropriate.

David Foley of CUPE Local 791 made a submission on behalf of workers at the Corporation of the City of Kitchener. He, like many other workers, complained of the failure of the Ministry of Labour to inspect office workplaces. In the case of CUPE Local 791, the local inspector will inspect only the industrial areas of the Corporation, not the offices. Mr. Foley also expressed concern about the employer's attitude towards office hazards, which are not seen as important:

"When we discuss the problem of lack of blinds on windows, improperly designed chairs and desks, improper ventilation and overcrowding, not to mention obvious concerns such as electrical outlets mounted on the floor in travel areas, we are ignored regarding the obvious, told to get substantiated proof regarding the ergonomics and advised that because budget had to be trimmed, other considerations were more essential. This comes from a supervisor whose well furnished air conditioned office is larger than the entire work area provided for a portion of his staff."

These hazards are in fact real, and the traditional assumption that the office workplace is safe must be challenged. There are hazards from the physical environment of the office: improper lighting, excessive or repetitive noise from copiers and key punch operations, or overcrowding. The increased number of sealed or climate controlled buildings has often meant employees work in environments improperly ventilated, with inadequate air changes and exposure to toxic substances or bacterial infection. Many products used in the office are hazardous. Toluene and other solvents from toners, erasers and cleaners pose hazards in both the short and long term. Ozone from copiers can result in dizziness or drowsiness; in the long term its effects are unknown.

Yet these concerns are often ignored, and even where unions fight for testing, it is often inappropriately done. Greg Randle of CUPE Local 87 produced documents at the Thunder Bay Task Force hearings showing that management had complied with requests to test for ozone, but it was done on a one time basis on a day when the copier had been mostly idle. Mr. Randle argued that the failure of management to conduct a series of tests under realistic working conditions indicates a lack of respect for workers' concerns.

The massive influx of microchip technology into the office has had a major effect on workers. Many submissions to the Task Force raised concerns about the health effects of video display terminals. The Occupational Health and Safety Act has no regulations governing work conditions on VDTs, and there are no laws in effect which require testing at the point of the machines' production. In addition to the suspected hazards from low level radiation, there are also concerns about exposure to PCBs, excessive heat and glare. The strain of repetitive work with improper lighting and no required breaks heightens the hazards. Poor machine design, incorrect layout of equipment and overcrowding are further ergonomic hazards faced by office workers. One of the newest problems intensifying office stress is the use of the technology to monitor productivity of workers. Workers are pitted against each other and themselves, with constant monitoring, accompanied often by reprimand and pressure tactics by management. Workers have no protection under the law against these practices.

Susan Meurer, a VDT operator in Toronto, raised concerns that equipment capacity now dictates the workload:

"In the two years I have been doing it (operating a VDT), I would say my work has doubled and this is because the equipment is constantly changing and able to handle a greater capacity and at a faster speed of course. We have to keep up with whatever the increased load is."

The stress created by increased workloads is but one of the health effects. VDT operators report skin rashes, strained eyes and muscle and back problems due to poorly designed equipment. Bob De Matteo of OPSEU spoke of a case the union is currently fighting for a clerical worker who has cataracts that some medical evidence suggests may be caused by radiation.

Questions about reproductive hazards have not been seriously addressed by the government. Mr. De Matteo, in his submission to the Task Force, raised the cluster of miscarriages in an office of Old City Hall in Toronto where the miscarriage rate in 1981 was 62 per cent, a staggeringly high figure. Yet the doctor sent in by the Ministry to investigate only recorded superficial information, never contacted the

women involved and concluded there was no significance to the cluster. The Occupational Health Branch did radiation tests and found that the VDTs were emitting fairly high levels of low-frequency radiation, yet the Ministry of Labour would not issue orders to shield the machines. To date, there has been no satisfactory study done of reproductive hazards here or in any Ontario workplace.

Workers must fight even to have health effects properly recorded. CUPE Local 543 workers from the City of Windsor submitted to the Task Force a copy of a questionnaire on VDTs circulated to VDT operators by their management. It was interested primarily in the workers' miscarriage history, and in exposure to colour televisions and microwave ovens. There were no questions on the survey dealing with immediate health effects such as eye problems, physical effects or stress.

Microchip technology and failure to protect is not just confined to the traditional office work environment. Joyce Rosenthal in her submission on behalf of Organized Working Women, stressed the potential hazards to both children and teachers in the school system where VDTs are being introduced. Children may be more susceptible to possible radiation hazards of VDTs, and all workers and students using the machines should have guarantees of proper lighting, adjustable furniture and proper spacing, shielding and ventilation of machines.

In addition, office workers in non-traditional environments often face industrial hazards but have no rights to health and safety committees. Dawn Cartwright of De Havilland Aircraft of Canada Ltd., where the office workers are members of UAW Local 673, spoke of the frequency with which office workers are sent into the plant to communicate information. Bill Dickerson, an OPEIU member, is an office worker at Domtar Forest Products in Red Rock, Ontario. He and other office workers face hazards of excessive dust because they work in portable offices on the industrial worksite. Yet they are classified as office workers and thereby excluded from Section 8 of the Act.

b) HEALTH CARE SECTOR

"Three years ago, health care regulations were promised to us in one month. Why should we go through the farce of participating in a consultative process if the Ministry is not interested in giving us the protection?"

Bob De Matteo
Health and Safety Co-ordinator
OPSEU

Health care workers are currently administered under the general umbrella of industrial regulations by the Ministry of Labour --totally inappropriate protection for their health and safety in the workplace. The health care regulations were drafted three years ago and have yet to become law. This failure to regulate has become a convenient excuse for the Ministry to not enforce protections under the Act.

Workers at St. Lawrence Lodge in Brockville, members of CUPE Local 2107 were required to transport patients with psychiatric disorders, some of whom were violent, to hospitals in Kingston, a distance of 96 kilometres. The practice had always been to have two workers, one to drive, and the other to care for the patients. When management directed that only one driver would make trips, the

employees protested to the Ministry of Labour under Section 14(2) (g) that the employer's duty is to take every precaution reasonable in the circumstances for the protection of workers. At that same time, there were an increasing number of complaints from workers about the violence of patients in the nursing home. In both cases, the area manager for the Ministry of Labour, ruled that since there were no regulations covering the health care sector, he was powerless to act upon the complaints of the threat to workers from violent or dangerous patients.

Patient violence was cited in a number of submissions to the Task Force as one of the principle hazards of working in chronic care facilities, hospitals and psychiatric institutions. Shirley Scarrow of OPSEU Local 111 from London Psychiatric Hospital cited a growing incidence of worker assault by patients, including 13 in her facility in the first eight months of 1982. At the time of the Task Force hearings, two staff had been off work for six months after being beaten by patients.

These examples point out the serious gap between staffing standards and what is necessary for the protection of the workers. The Ministry of Health sets by regulation the requirement for staff/patient ratios and the required hours of nursing care. These are outdated and inadequate because of the changing nature of institutionalized patients. The government's policy of deinstitutionalization has meant a higher concentration of more disturbed patients in the psychiatric facilities and a patient population requiring much heavier care in chronic facilities. Inadequate staffing creates problems of stress, and even the possibilities of violence.

It also meant a staggering increase in back injuries. In every single submission from health care workers, this was cited as a major occupational hazard. Inadequate staff to lift patients and inadequate numbers of mechanical lifts have contributed to this.

George Wilson, on behalf of Joan Duerden of CUPE Local 1263, appeared before the Task Force representing 600 workers in homes for the aged in the Niagara Region. They blamed safety problems such as back injuries on the restraint policies of the provincial government:

"Underfunding of these homes means understaffing and understaffing means that a staff member is under considerable pressure to try and lift a resident alone rather than consume the time needed to find another overburdened staff member to help lift. This in turn results in back injuries to staff and in some cases has resulted in injuries to the residents as well."

Communicable diseases are regulated under public health laws but worker exposure is not specifically covered. For example, ambulance drivers (CUPE) in Sudbury have complained that they don't know until after they have handled a patient whether they have a communicable disease. The Task Force heard of instances where registered nursing aides (RNA's) at Perley Hospital in Ottawa (CUPE Local 870) were not informed about patients having communicable diseases, so they didn't know if they were being exposed to a patient with contagious health problems. Yet they are routinely expected to assist patients with personal hygiene. The solution is clearly to set up a preventive information system where RNAs are warned about exposure before working with a patient.

The issue of anaesthetic gases and other toxic fumes is an important concern of hospital workers both in respect to short term hazards and long-term reproductive effects. Members of CUPE Local 424 from Stratford General Hospital spoke of their hospital management who are quite co-operative on most issues yet have not resolved the continuing problem of alcohol fumes in the lab. CUPE's national health and safety representative, Colin Lambert, learned that the Ministry of Labour, in co-operation with the Ontario Hospital Association, had conducted a 10 hospital study on workers' exposure to ethylene oxide and concluded there was not a problem of exposure. At no time during the study were the workers in these 10 hospitals consulted. Only after considerable pressure did the Ministry of Health make available the names and study results of just six of the 10 hospitals. Yet based on these results, a more extensive 75 hospital study on anaesthetic gases is underway excluding ethylene oxide. To quote Colin Lambert at the St. Catharines hearings:

"So we are faced with a real game of Catch-22. The Ontario Ministry of Labour tell us that all the hospitals in Ontario have no real problems with ethylene oxide, that they do not feel there is any need to change the present threshold limit value nor do they feel that there is any need to monitor hospitals to determine whether there is over exposure to ethylene oxide for workers. They base this decision on a study of ten hospitals, the results of which are confidential."

Until hospital workers are given access to information on toxic substances unique to their work environment, and real access to management's and governments' decisions about the hazards of such gases, they will not be protected.

Many workers urged Task Force members to press for specific regulations to protect the health and safety of workers in the health care sector.

c) MINING SECTOR

"The one area in which the ministry has not improved but failed drastically, is in the enforcement area of the Mine Safety Inspection Branch. This branch has used the terminology Internal Responsibility System as a definite crutch to shirk its responsibility."

Dan Sweezey, USWA Local 6500, Sudbury

Last year there were 12 mine fatalities, and countless other accidents and injuries. Mining continues to be extremely hazardous work and those who appeared before the Task Force stressed a number of concerns which need to be immediately addressed. Despite all of the technological advances, mines today still need better lighting, and substantial reduction of noise and dust levels. Workers still have inadequate sanitary and clean-up facilities and need improved lunch areas. In addition to the toxicity of the mine materials, workers face hazards of abnormal air pressure and carbon dioxide from emissions from constantly running machinery.

Dr. Joseph Cummins, a geneticist with the University of Western Ontario in London told the Task Force that recent changes in mining technology posed new hazards. His experiments have shown that the oil-salt explosives being used leave mutagenic, carcinogenic residues in the air and on surfaces. Plastic polymers now being used to retain tunnel walls react with nitrogen oxides from diesel exhausts and nitrate-oil explosives to release highly carcinogenic nitrosamines. Cummins

stressed that new protective devices are needed to rectify those problems. In the case of nitrosamines for example, they readily penetrate rubber protective clothing.

Workers told the Task Force of unsafe conditions created by "homemade" parts of mining machinery. One steelworker in Thunder Bay spoke of modifications to equipment because the proper replacement parts weren't available. Section 14(1)(b) of the Occupational Health and Safety Act states "the equipment, materials and protective devices provided by him (the employer) are maintained in good condition." Yet this doesn't preclude home made devices as stop-gap measures, which are often dangerous underground.

The same holds true in the work process. Steelworkers at the Thunder Bay hearings cited one example of a concentrate dryer where the igniting flame of an oil fired system could not be started one night. The supervisor, concerned about production, told a worker to ignite the dryer with an oxygen acetylene torch. That worker refused, believing it to be hazardous, then another worker refused. Instead of following the work refusal procedures under Section 23, the supervisor did the hazardous job himself.

Another problem is the high number of mining inspectors and engineers who bring a management bias to the job. Workers at the Task Force hearings urged that more inspectors be appointed from the ranks of workers. According to Dan Sweezey (USWA) Local 6500, of the last few appointments to the mining branch of the Ministry of Labour, 5 of 6 hired were former INCO management.

Accessibility to Ministry inspectors during weekends or graveyard shifts is also a problem. Local 6500 of the Steelworkers pointed out to the Task Force that 24-hour operations need 24 hour availability of inspectors in case of accidents. An incident after the hearings clearly confirmed their concerns. On January 29, 1983 during the graveyard shift at the Copper Cliff Nickel Refinery in Sudbury, excessive amounts of nickel carbonyl were twice released, entering the plant and surrounding environment. The workers experienced dizziness and had to be given oxygen. Of the 13 workers 9 had amounts of nickel carbonyl above permissible levels in their urine. The Ministry of Labour was called at 5:30 a.m. Not until two days later, on the Monday afternoon, did they come to investigate.

The threat of fires is another imminent hazard for underground workers. Workers told the Task Force that Section 34 of the mining regulations requiring safe procedures for "hot work" such as blow-torch or welding are not followed by management and not enforced by the Ministry. They urged that the requirements for firefighting equipment under this section of the regulations be strengthened to make it mandatory that firefighting equipment be attached to the welding gear.

Andy Delarosbil of USWA expressed concerns about the mining regulations allowing workers to work alone underground:

"It is a common experience for a worker to be assigned to work alone (Section 15, Mining Regulations), however, in underground mining this could be disastrous. The company's practice is to visit at least every two hours. What happens if the worker is drilling and loose rock falls on him? His shift boss was in just fifteen minutes ago. The result is he could be pinned under for a minimum of one hour and forty-

five minutes. One hour and forty-five minutes could be the difference between life and death. IT IS IMPERATIVE THAT NO ONE WORK ALONE UNDERGROUND."

The distance from medical help is also a problem. There are often accidents in mines. Yet Shebandowan Mine for example, is almost 100 kilometres from the nearest medical attention. Mineworkers urged the Task Force that a qualified industrial nurse be on all operating shifts, and that management pay for first-aid training for workers. Both measures would help save lives.

Other concerns raised by workers include: incomplete inspections of huge mining properties; the exhorbitant costs of protective clothing; and training requirements under the mining regulations being interpreted as maximum requirements instead of the minimum, resulting in less than fully skilled new workers in the mines.

d) THE CONSTRUCTION SECTOR

Every year a large number of construction workers fall victim to industrial accidents and disease. Although the Act has contributed to improved working conditions on construction sites, incorporated into the Act are limitations or lines of responsibility that make health and safety problems on these sites difficult to resolve.

For example, a safety representative is only mandatory on a construction site where the number of employees is greater than 20 (Section 7(1)). Since many small construction projects employ far less than 20 people, there is often no one on a construction site responsible for safety checks.

On larger construction projects where there are more than 20 workers, the worker who is selected as the health and safety representative may only be knowledgeable about the hazards of one craft. The construction unions told the Task Force that, as in collective bargaining, the selection of health and safety representatives on construction sites should allow for one representative from each craft working on the site.

The union representatives also pointed out that the Act places great responsibility on the employee to act as his own protector in identifying and pointing out hazards to the employer. Since construction work depends on moving from one job to the next, workers on construction sites are reluctant to point out hazards for fear of being discriminated against on a new site when their current job ends.

Another difficulty for construction workers is Section 13 of the Act, which places responsibility for health and safety matters at a construction site on the contractor, rather than the owner.

Where a workplace is a project, the contractor must look after health and safety problems. However, construction workers have had difficulties in being exposed to hazards which were beyond the control of the contractor, such as where a construction job involves an addition or renovation to an industrial operation. Workers in Thunder Bay working on an addition to a pulp and paper mill found that stack gases from the mill were building up in an area where construction work was taking place. Because they were not part of the joint health and safety committee in the mill, they could only appeal to the contractor to solve their problems.

On certain construction projects, the owner may hire two contractors for separate aspects of the job. Because the responsibility for health and safety does not rest with the owner, if one contractor is negligent, workers hired by the second contractor may be exposed to hazards over which they have no control.

For construction workers, the key to a safe workplace is vigorous enforcement by the Ministry of Labour. The union representing the largest number of construction workers in the province, Labourers International, believe that while worksites in major cities such as Toronto may be inspected frequently, remote worksites, particularly in northern Ontario, suffer from understaffing and a subsequent lack of enforcement.

However, even frequent inspection by the Ministry of Labour has not guaranteed construction workers freedom from hazards on the job. Rodmen, who as part of their work on construction sites are required to hang off belts on vertical walls, have suffered from both acute back injuries, as well as developing serious degenerative back disease. A 1977 survey by the Ironworkers Union Local 721 showed that 70 per cent of the rodmen responding to the survey suffered degenerative back effects, while 90 percent of rodmen and ironworkers quit their work because of back problems. Yet there is virtually no legislation that would address the health problems of rodmen arising from work practices such as climbing and hanging off vertical walls or bending over all day tying steel rods. Although Section 76 of the Construction Regulations has been interpreted as prohibiting the practice of hanging off belts as a substitute for scaffolding, the Ministry of Labour is not enforcing the legislative protection that exists. In addition, these back problems have not been recognized historically in claims to the Workers' Compensation Board.

XII CONCLUSION

The most important thing we have is our health.

Yet the conditions in which thousands of people work in our province place their health in jeopardy. Many of the causes of industrial diseases and accidents have been known for 40 or 50 years, according to Dr. James Nethercott, director of the occupational health clinic at St. Michael's Hospital in Toronto. Despite this knowledge, Ontario has not done nearly enough to eliminate the causes of these problems.

The key to our approach is to give workers the ability, as well as the right, to assure themselves of a healthy workplace.

We based our recommendations on the experience of working people, as we heard their concerns at hearings and through submissions. And we did so not just on the dozens of specifics which flaw the Occupational Health and Safety Act, but also on the approach of this government to this vital human field.

What did we find, and what did we hear? Principally, it was dissatisfaction, frustration, fear, disappointment and a sense of futility.

Dissatisfaction, first, with the Internal Responsibility System. Management, and not the health and safety committees, decided in the final analysis what would be done to correct health and safety problems. Frequently, if more than token costs were involved, that proved to be very little. Dissatisfaction, second, with the lack of enforcement of this province's laws. Tens of thousands of orders are issued, and 10 to 15 per cent must be repeated because companies fail to comply. Yet charges are few, fines are low and workers continue to get hurt or become ill.

Frustration, with their difficulty in improving conditions despite much time and effort. Many workers spend hours of their free time trying to improve working conditions at their plants, factories or offices. But when continually thwarted at every move, exasperated unions and health and safety committee members are tired of the fight because they are essentially powerless in bringing about meaningful change.

Fear, from their inability to obtain adequate information about substances they handled or inhaled in their work. Firemen didn't know where substances were located and what quantities were involved when fighting a fire. When working with drugs, workers often didn't know the effects on them. Constant attempts to get information about chemicals and their hazardous effects proved futile for many. And when workers try to claim their rights to a healthy and safe workplace, they have been threatened with letters of dismissal, lost pay, have been sent home from work, and subjected to other subtle forms of intimidation.

Disappointment, because many workers felt that the Occupational Health and Safety Act would make a safe workplace possible. Many told us they were no better off now than before the Act was introduced. Many have never even seen a copy of the Act and are not trained to make the Act work.

Futility, in that many felt a higher value was attached to their employer's costs than basic health and safety concerns. If costs are minimal, changes are possible. But all too often health becomes secondary to the balance sheet.

For many, these concerns can be traced back to one key fact: too much power in health and safety matters continues to lie in the hands of those whose actions resulted in introduction of this legislation in 1976. The clear consensus among those who presented evidence at our hearings was that only where management wanted a safe working place would it occur. But without enlightened companies and managers, the inherent flaws of the Act and the failure of this government to enforce its own laws has meant there is no meaningful health and safety programme in this province for hundreds of thousands of people.

To those who still believe this Act tough, or strong, or even slanted towards working people, let them examine the record. We have made every effort to report accurately and fairly what we heard. We used a number of case studies to show where the Act has failed, and the ways in which the Ministry failed to enforce the Act. Across the province, we have found no abuses of the right to refuse dangerous work, nor have workers been frivolous in their efforts to improve their working life. They are simply trying to protect their health, their lives, their families.

This report is a challenge to the Tory government. It is also a challenge to the people of Ontario. Those who say "we can't afford to do more" are really saying that health is less important than private enrichment. The choice is clear.

Profit is paramount, it would appear, in our society. Yet if we lay aside the human calculus for a moment, and simply examine the balance sheet, our failure to regulate health and safety and enforce even those inadequate laws on the books is costing society dearly.

In 1981, $984 million was paid out in direct compensation to victims of occupational disease and accidents. In the same year, an estimated $3.9 billion in indirect costs resulted from job-related diseases and injuries. And when all the diseases proven to be work related yet not accepted by the Workers' Compensation Board are added, billions of dollars more are hidden in our general health bill.

Too many workers are being used as guinea pigs while government and companies conduct "epidemiological studies." We in our party have made our decision and our commitment. We do not think health is a commodity to be bought and sold. We cannot afford to wait.

The work of changing the law has to be matched by a change in attitude as well. Nothing is more precious than life itself.

XIII RECOMMENDATIONS

1. A purpose for the Occupational Health and Safety Act must be established such as the International Labour Organization statement , which defines the objective of occupational health as "the promotion and maintenance of the highest degree of physical, mental and social well-being of workers in all occupations."

Internal Responsibility

2. Internal responsibility must be redefined to ensure the right of every worker in Ontario to a healthy and safe workplace. This right includes the worker's right to participate, the right to inspect, the right to shut down any operation that is unsafe, the right to full wage-and-benefit protection as a result of any medical monitoring program or during any work loss or shut-down due to health and safety problems, the right to know, the right to refuse and the right to strict enforcement of the Act by the Ministry of Labour. These rights must be entrenched in the Occupational Health and Safety Act.

3. The Occupational Health and Safety Act must be amended to cover all workers in Ontario under provincial jursidiction.

4. All workplaces shall have the right to joint health and safety committees.

5. A code of practice for joint health and safety committees, consistent with the principles of this report, shall be immediately published. This shall include the number of workers on the joint committee, departmental representation and guidelines to ensure both union and management agree to the agendas and minutes of meetings, and guaranteed access by all workers to the information. This code of practice would require workers and management to co-chair the joint committee. Workplaces of 10 or more employees will have a minimum of two workers on the joint health and safety committe. In workplaces of less than 10 employees, the health and safety committee shall have a minimum of one worker.

6. Major employers shall have committees in each large department, the numbers of which would be determined by the code of practice.

7. On construction sites the union, or where there is no union, the workers shall designate one or more worker health and safety representatives to carry out inspection and investigation functions.

8. In workplaces other than construction the union or workers, in selecting the workers on the joint health and safety committee, shall have the right to designate one or more worker health and safety representatives to carry out inspection and investigation functions.

9. No worker shall suffer a loss of wages or benefits for work loss or shutdown due to health and safety problems.

10. Worker health and safety committee members and representatives shall have the right to shut down an unsafe work operation.

11. Worker health and safety committee members or representatives shall be protected from liability if they have acted in good faith.

12. The Act shall require health and safety committees to meet a minimum of once a month, or at the insistence of either party.

13. Health and safety committee members or representatives shall have the right to a complete workplace inspection at least once a month or at their request.

14. The Act shall include an arbiter to resolve non-regulated issues upon which the joint committee cannot agree. Issues covered by legislation or regulation should be strictly enforced by the Ministry of Labour.

Lack of Enforcement

15. There shall be time limits in which management must respond to recommendations of joint committees to clean up the workplace, such time limits to be enforced by the Ministry.

16. There must be strict enforcement of the Act by the Ministry of Labour.

17. Enforcement by the Ministry of the violations shall be immediate, as in the Highway Traffic Act.

18. Time limits shall be placed on all orders.

19. Time limits shall be introduced to ensure control programs are in place for designated substances.

20. Where there are reprisals taken by a company against a worker carrying out any responsibilities under the Act, the Ministry of Labour shall prosecute the employer. This shall be done in addition to any action taken by the worker to the Ontario Labour Relations Board .

21. The Ontario Labour Relations Board shall be given power to provide costs to workers bringing complaints forward.

22. When companies send letters of compliance of orders to the Ministry of Labour, they shall first secure the signature of the union to ensure their validity.

23. A coroner's inquest shall be mandatory in all workplace fatalities. Workers and their unions shall be automatically allowed standing.

24. The anti-labour bias of Ministry of Labour inspectors shall be addressed through better education and hiring procedures.

25 Ministry of Labour shall publish all interpretations of the Act and its regulations immediately upon making such interpretations.

Right to Refuse

26. Sections 23(1) and (2) of the Act shall be removed thereby giving all workers the right to refuse unsafe work.

27. Workers shall be given the right to group work refusals.

28. The right to refuse shall be extended to include conditions causing stress, including assault or attempted assault.

29. Workers shall have the right to full wage and benefit protection as the result of any work loss or shutdown due to work refusals.

Workers Right to Information

30. Health and safety committee members or representatives must be present when all testing or monitoring is done to ensure that proper procedures are being followed, under representative working conditions.

31. Health and safety representatives shall have the right to do their own testing and monitoring, and the right to bring in their own experts for the same purpose.

32. Health and safety representatives shall have the right to be notified and participate in any accident, or safety- or health-related investigation.

33. In addition to posting inspection orders, copies shall be given to the unions representing the workers.

34. Companies must forward copies of all monitoring reports and copies of all correspondence between them and the Ministry of Labour to members of the health and safety committee and their unions.

35. Labelling requirements shall be implemented on all chemicals in the workplace, so that containers readily display chemical composition and generic names, handling precautions and associated hazards.

36. Safety data sheets shall be standardized with trade name, generic name, chemical composition and quantity, physical data, handling information, associated health hazards including results of short-term, animal and epidemiological testing done.

37. The Ontario government shall ensure access to health and safety information, particularly material such as safety data sheets, inspectors' reports, assessment and control programs as required by the designated substance programs, and testing reports.

38. Workers must have the right to generic names and chemical composition of substances in use in their workplaces. Workers shall have rights to all the information recommended in #36 on safety data sheets.

39. Companies should have no right to market or use products if they will not give full disclosure of chemicals used and file the information in a central registry. Information which companies call trade secrets, patent rights, or proprietory rights shall not take precedence over health of workers.

40. A copy of the Act (paid for by the employer) shall be given to every employee and supervisor and the Act shall be made available in other languages.

41. There shall be a community right to information so people know what toxic chemicals are being used, stored or transported in the community.

Medical Monitoring

42. Medical monitoring shall be voluntary, not mandatory.

43. Workers who choose to undergo medical testing have the right to a doctor of their choice.

44. Medical monitoring must be paid for by management.

45. Medical monitoring must be work-related.

46. All medical information must be kept strictly confidential unless the worker approves release of the information and the information should not be used by the employer in any way that could affect the employee/employer relationship. General prehiring medical release forms now required by companies should be made illegal.

47. Independent occupational health clinics shall be established in every major industrial city, and shall be funded collectively by employers. These clinics shall be worker-controlled.

Regulation of Toxic Substances and Workplace Hazards

48. Every effort must be made to reach a "no exposure" level on any substance not proven 100 per cent safe. The burden of proof that there are no adverse health effects shall rest with the manufacturer.

49. There must be pre-market testing of all chemicals and testing of chemicals on the market.

50. Current guidelines for limits of exposure that are being regulated shall be considered a minimum requirement, with the goal to be reducing exposure to zero.

51. We support the OFL's cancer policy paper, including:

- pre-market testing and classification of new chemicals and of all chemicals curently in use;

- those classified as carcinogens or potential carcinogens by short-term or animal tests should be removed from the workplace and replaced with "safer" products. Until such time as this removal is possible, companies and employers shall decrease exposure to the no detectable level.

52. There must be a generic cancer regulation to protect workers against exposure to any carcinogen.

53. There must be a generic regulation to protect workers against reproductive hazards.

54. The government must move quickly to introduce the long-promised regulations for the health care and education sectors.

Worker Education

55. The Act shall ensure that all union health and safety representatives complete the Ontario Federation of Labour Certificate program within a specified time of their election or appointment to a health and safety committee.

56. Education of all workers will be undertaken with the employer paying lost-time wages and shall be available in the language spoken in the workplace.

57. Ministry of Labour must ensure a system of training for supervisors, including a requirement to certify competence as required under Act.

58. Mandatory health and safety training is urged for the public school system for all students, using a curriculum approved by representatives of labour and management.

59. An amount of money equivalent to the amount currently allocated to the Accident Prevention and Safety Associations shall be given to a worker health and safety association run by the OFL to train workers, both organized and unorganized.

Exclusions

60. Section 3 of the Act must be removed. No worker shall be excluded from the Health and Safety Act.

61. All the rights and provisions granted to workers in these recommendations must apply to all workers.

Vulnerability of the Unorganized

62. The greatest health and safety protection for the unorganized will be achieved by amending the Ontario Labour Relations Act (OLRA) to facilitate organizing workers into the unions which can provide the most protection to their rights.

63. Special protections must be developed and incorporated into the Act to protect unorganized workers including:
    - central reporting of committees to the Ministry of Labour.
    - central reporting of inspections and follow up to unorganized plants.

64. There shall be guaranteed funding to community occupational health and safety groups such as Windsor Occupational Safety and Health Council (WOSH) in each major industrial centre to carry out vital education and advocacy work. This is particularly important for unorganized workers.

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Appendix A

The Task Force Ad Hoc Advisory Committee

Linda Jolley, Toronto, Ontario
Colin Lambert, Canadian Union of Public Employees, Ottawa, Ontario
Ed Waddell, Ontario Federation of Labour, Don Mills, Ontario
Gary Cwitco, Communication Workers, Toronto, Ontario
Jim Turk, United Electrical Workers, Don Mills, Ontario
Bob DeMatteo, Ontario Public Service Employees Union, Toronto, Ontario
Jim Gill, United Auto Workers, Willowdale, Ontario
Dan Ublansky, Energy & Chemical Workers Union, London,Ontario
John More, Energy & Chemical Workers Union, Oakville, Ontario
William Punnett, United Rubberworkers,Toronto, Ontario
Jim Bolan, Canadian Union of Public Employees, Toronto, Ontario
Mel Papke, Mine Mill, & Smelterworkers, Sudbury, Ontario
Albert Kanabe, United Steelworkers of America, Elliot Lake, Ontario
Ed Vance, United Steelworkers of America, Elliot Lake, Ontario
Homer Seguin, United Steelworkers of America, Sudbury, Ontario
Dan Sweezey, United Steelworkers of America, Sudbury, Ontario
John Donaldson, Ironworkers Union, Toronto, Ontario
Jim Brophy, Windsor Occupational Safety & Health (WOSH) Windsor, Ontario
Nick McCombie, Injured Worker's Consultants, Toronto, Ontario
John Jackson,(WOSH), Windsor, Ontario
Stan Gray, Hamilton Labour Council, Hamilton, Ontario
Larry Gauthier, London, Ontario
Bruce Gray, Energy & Chemical Workers Union, Oakville, Ontario
Dieter Wehr, Amalgamated Transit Union, Toronto, Ontario
Barry Allen, Amalgamated Transit Union, Toronto, Ontario
David Pretty, Energy & Chemical Workers Union, Oakville, Ontario
Mike Hutsulak, United Brotherhood of Carpenters, Toronto, Ontario
Emile Prudhomme, Mine Mill, & Smelterworkers, Sudbury, Ontario

Appendix B
List of Task Force Participants

HAMILTON HEARINGS

Art Cook, IAM, Hamilton
Ron Rowbottom, Simcoe Canworkers Union, Waterford
Henry Meidas, Hamilton and District Labour Council, Hamilton
Mike Skinner, USWA, Hamilton
John Lennie, USWA, Hamilton
Don Fraser, USWA, Stoney Creek
Dr. Ken Burgess, Hamilton Workers' Clinic, Hamilton
Dave Gordon, United Rubberworkers, Winona
Gary D'Entremont, USWA, Hamilton
Diane Holland, UFCW, Hamilton
Anna Rutkowski, CUPE, Hamilton
Bob Rose, CUPE, Hamilton
Gerry McDonnell, CUPE, Hamilton
Ed Hunt, UE, Hamilton
Bob Patton, UE, Hamilton
Iain Jaffrey, USWA, Hamilton
Stan Gray, Hamilton & District Labour Council, Hamilton

SUDBURY HEARINGS

Cathy Rodda, CUPE, Sudbury
Harriet Conroy, Chelmsford
Phil Martel, CUPE, Sudbury
Ken Thomas, CUPE, Val Caron
Roger Neeley, CUPE, Sudbury
Roland Boisvert, USWA, Cobalt
Ed Nitchie, Mine, Mill and Smelterworkers, Sudbury
Dan Sweezey, USWA, Sudbury,

THUNDER BAY HEARINGS

Buzz Coley, UAW, Thunder Bay
Henry Gareau, USWA, Thunder Bay
Norm Richards, President, Thunder Bay Labour Council, Thunder Bay
Bill Dickerson, OPEIU, Red Rock
Hugh Lennen, CUPE, Thunder Bay
Bill Feaver, CUPE, Thunder Bay
Elaine Harris, SEIU, Thunder Bay
Greg Randle, CUPE, Thunder Bay
Francis M. Bell, President, USWA, Thunder Bay
Andy Delarosbil, USWA, Thunder Bay
Gordon Prest, USWA, Balmerton
Tom Chauvin, Jr., President, USWA, Thunder Bay,
Robert F. Smith, USWA, Thunder Bay
Marie Rule, SEIU, Thunder Bay
Larry O'Brien, SEIU, Thunder Bay

Bert Donaldson, United Brewery Workers, Thunder Bay
Leo Brace, IBEW, Thunder Bay
Dr. Baarschers, Resource Centre for Occupational, Health and Safety, Thunder Bay
Ina Chomyshyn, Resource Centre for Occupational, Health and Safety, Thunder Bay

PETERBOROUGH HEARINGS

Teena Flood, UE, Cavan
Bruce Harris, UE, Peterborough
John Ball, UE, Bewdley
Cameron Wright, OPIRG, Peterborough
Ray Collet, USWA, Peterborough

ST. CATHARINES HEARINGS

Bill Craine, CUPE , St. Catharines
George Wilson, CUPE , St. Catharines
Jim Woodward, CUPE, Don Mills
Lucie Nicholson, President, CUPE , Don Mills
Tom Rozon, USWA, St. Catharines
Mark Spong, UAW, Hamilton
Rick McKay, UAW, Stoney Creek
David Christopherson, UAW, Hamilton
Milton Sears, UAW, Hamilton
Erv Brown, UAW, Hamilton
Eddie Child, UAW , St. Catharines
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Gerald Lacombe, UE, Welland
Sterling McElrea, USWA, Brantford
Colin Lambert, CUPE, Ottawa
Gerry Michaud, President, UAW , St. Catharines

OTTAWA HEARINGS

Bill Bolton, UE, Lansdowne
John Lameront, UE, Gananoque
Mike Kelly, CUPE, Ottawa
Sally Swimmer, CUPE, Ottawa
Christie O'Connell, CUPE, Ottawa
Jean Marc Bezaire, CUPE, Vanier
Brian Demers, CUPE, Ottawa
Len Belford, CUPE, Ottawa
Gloria Puckerin, CUPE, Ottawa
Mike Hurley, CUPE, Ottawa

TORONTO HEARINGS

Dr. Jaime Meuser, Toronto Occupational Health, Resource Committee,Scarborough
Sandra Gaskell, Federation of Women's Teachers, Association of Ontario, Toronto
John Wilson, UAW , Brantford
Tom Duff, UAW , Brantford
Abbot Harvey, UAW, Toronto
Dawn Cartwright, UAW, Rexdale
John H. Bettes, UAW , Downsview
Jim Gill, Director, Legislative Dept., UAW, Willowdale
Bill Guthrie, CUPE, Scarborough
Heather Webster, ACTWU, Don Mills
Bill Reno, UFCW, Don Mills
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Ronald Davis, Labourers' International Union, Thunder Bay
John Vella, Labourers' International Union, Hamilton
Eddie Thornton, Labourers International, Toronto
Eugene Wazny, UE , Toronto
Ken Stovell, UE , Toronto
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Jim Bolan, CUPE, Toronto
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Vivian McCaffrey, OPSTF, Toronto
Mutale Chanda, Canadian Farmworkers' Union, Toronto
John Donaldson, Ironworkers Union, Toronto,
Mike Hutsulak, United Brotherhood of Carpenters and Joiners, Toronto
Edward Guthrie, President, International Brotherhood of Firemen and Oilers,Toronto
Ron Joyce, Graphic Arts International Union, Bramalea
Gary Cwitco, CWC, Toronto
Janice MacLelland, CWC, Toronto
Bob DeMatteo, OPSEU, Toronto
Susan Meurer, Toronto
Joyce Rosenthal, Organized Working Women, Don Mills
Dieter Wehr, Amalgamated Transit Union, Rexdale
Barry Allen, Amalgamated Transit Union, Willowdale
Sheelagh MacDonald, UE , Richmond Hill
Bob Bowers, UE, Weston
Wayne Ericksen, UE, Toronto
Dan McMillan, UE, Toronto
Bruce Gray, ECWU, Oakville
Vera Koncic, UE, Toronto
Cathy Treacy, President, UE, Scarborough
Joe Carreiro, UE, Brampton

KITCHENER HEARINGS

John Coleman, UAW, Kitchener
Cliff Dawe, UAW, Kitchener
Tammy Heller, UAW, Kitchener
Bill Handorf, CUPE, Cambridge
Carl Armstrong, CUPE, Cambridge

Neil Frickey, Kitchener-Waterloo Labour Council, Kitchener
David Quayle, USWA, Cambridge
Mary Ramotar, CUPE, Guelph
John Yasyszczyk, USWA, Guelph
Tony Southwell, USWA, Fergus
Carol Swales, UAW, Kitchener
Doreen Dye, UAW, Waterloo
Dave Foley, CUPE, Kitchener
Jim Nelson, CUPE, Kitchener,
Diane Sudds, USWA, Guelph
Walley Hillen, USWA, Guelph
Don Culp, USWA, Kitchener
Larry Weadick, USWA, Kitchener
David Devine, Cambridge Labour Council, Cambridge
Al Turner, URW, Kitchener
Alf Brown, URW, Kitchener
Phil Weller, OPIRG, Waterloo,

LONDON HEARINGS

Ken Glassco, ECWU, Sarnia
Dan Ublansky, ECWU, Sarnia
Jack Saunders, ECWU, Sarnia
John Arnold, ECWU, Sombra
Judy Kyle, London & District Service Workers' Union, Port Stanley
Laurie Fisher, London & District Service Workers' Union, London
Shirley Scarrow, OPSEU, London
William Francis, USWA, London
Dr. Joe Cummins, University of Western Ontario, London
Frank Stilson, London
Francis Perencsik, UAW, London
Alan McGough, UAW, London,
Bob Sexsmith, UAN, London
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Ken Valentine, USWA, Toronto
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Ron Moreau, USWA, Sault Ste. Marie
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Dennis Abernot, USWA, Sault Ste. Marie
Brad Tunks, London
Clare Meneghini, UAW, Willowdale
Vici Mummery, London
Dan Wood, London
Frank Duquette, London

WINDSOR HEARINGS

Gino Dominato, UAW,Windsor
Andy Breschuk, CUPE, Windsor
Monica Ballance, CUPE, Windsor
Michele Adam, CUPE, Windsor
Peggy Simpson, Councillor, City of Windsor, Windsor
Sue Zanin, OSSTF, Windsor
Malcolm MacIntosh, UPGWA, Windsor
Frank Durocher, Firefighters, Windsor
Debbie Fields, UAW, Windsor
David LaChapelle, UAW, Essex
Don Lesperance, UAW, Belle River
Manuel Doforno, UAW, Amherstburg
Harry Warner, UAW, Chatham
Linda Turner, CUPE Area Council, Windsor,Ontario
Ruby Taylor, CUPE, Windsor
Lynwood Martin, UAW, Amherstburg
Kris Wojnarowski, UAW, Essex
Bob McArthur, UAW, Harrow
Gary Ryan, UAW, Windsor
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Mike McGrail, CUPE, Windsor
Ron Bondy, President, CUPE, Windsor
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Peter Cassidy, Windsor Legal Assistance, Windsor
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Larry Gauthier, WOSH, Windsor
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Jim Brophy, WOSH, Windsor
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In addition, we would also like to thank all those who contributed to the Task Force hearings but who chose to appear "in camera".